

## Normed Children: Effects of Gender and Sex Related Normativity on Childhood and Adolescence

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Erik Schneider, Christel Baltes-Löhr (eds.)

# NORMED CHILDREN

Effects of Gender and Sexs Related  
Normativity on Childhood and Adolescence



Erik Schneider, Christel Baltes-Löhr (eds.)  
Normed Children



ERIK SCHNEIDER, CHRISTEL BALTES-LÖHR (EDS.)

# **Normed Children**

**Effects of Gender and Sex Related Normativity  
on Childhood and Adolescence**

**[transcript]**

This publication is the English version of “Normierte Kinder. Effekte der Geschlechternormativität auf Kindheit und Adoleszenz” edited by Erik Schneider and Christel Baltes-Löhr in 2014. A third unchanged edition has been published by transcript Verlag in 2018.

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# Introduction<sup>1</sup>

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*Christel Baltes-Löhr, Erik Schneider*

The present publication is based on selected contributions for the 2012 conference 'Gender Normativity and its Effects on Childhood and Adolescence', which was held in cooperation between the association Intersex & Transgender Luxembourg and the University of Luxembourg.<sup>2</sup> The conference helped release synergies, an occurrence which is still unusual for not only Luxembourg, but also the spheres beyond it: the collaboration and joint discussion between people whose own biographical circumstances led them to engage with the conference topic, political activists aiming at establishing equal rights for all those who do not conform to the normative notions of a binary sex/gender order and at removing the taboos around their ways of life, and finally members of the scientific community who dedicate themselves to this subject in their research and teaching. During the exchange of innovative ideas and concepts regarding the subjects and topics related to 'inter- and trans-sex/gender-related constitutiveness',<sup>3</sup> the aim was to avoid any hierarchizing speech about so-called affected persons by so-called professionals, and to strive for an equal exchange of all conference participants regardless of their sex/gender affiliation.

Around 200 attendees from various European countries (Belgium, Germany, France, Luxembourg, the Netherlands, Austria, Switzerland, Great Britain), Canada and Cuba, as well as speakers from such diverse disciplines as biology, medicine, law, education, psychology, sociology and philosophy, made it possible to embark on a comprehensive and multi-faceted debate. The conference was met by considerable media interest, even far beyond the borders of Luxembourg. Following the event, a desire for a continued international exchange between

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**1** | Original version in German.

**2** | URL: <http://idw-online.de/pages/de/attachmentdata18240.pdf> [21.12.2013].

**3** | Instead of trans\*, the German version of this publication uses the form trans' developed by the association Intersex & Transgender Luxembourg. In order to not to disturb the lecture and to avoid miss-understandings, trans' is not used in the English version and replaced by trans. Inter' is replaced by inter. The term of sex/gender-related constitutiveness will underline the assumption that all sexes, all genders are to be considered as results of ongoing processes of social constructions and developments. 'Inter- and trans-sex/gender-related constitutiveness' is an innovative translation for the German terms 'Intergeschlechtlichkeit' and 'Transgeschlechtlichkeit'.

speakers, researchers and interested persons remained. This led to the development of international and pluridisciplinary connections which also included parents' groups of trans children. Thus the present publication can serve as a landmark for raising further awareness of issues of inter- and trans-sex/gender-related constitutiveness within scientific and public debates.

What is particularly remarkable about the conference is its focus on the life situations of children and adolescents, whose subjective self-attributions of sex and gender do not conform to the binary normative sex/gender matrix, but who live – are forced to live – lives that are strongly delimited, and often even constricted, by this very matrix. This indicates a more comprehensive perspective offered by the conference and the present publication: the questioning of currently accepted sex/gender norms.

Generally, sex/gender and the corresponding norms seem to be an integral part of life – like the air we breathe. It seems *normal* to have a sex/gender – and only one at that. The power of such normative notions becomes particularly clear in encounters with people who do not seem to conform to these norms, or who even seem to resist them altogether. This observation brings up questions about the necessity of such norms and the consequences resulting from their *blind*, i.e. unreflected implementation.

Particularly with regard to children, adolescents and their families, an intersectional perspective quickly reveals correlations regarding the potency of normative attributions of sex/gender with other interrelational dimensions such as ethnicity, age and physical constitutiveness. On the other hand, normative notions, processes of norming, of approaching variation and otherness, as well as confirmation and affirmation can also be elucidated with such a perspective on children and adolescents.

Without trying to establish yet another classification of people with affiliations to particular groups of sex/gender, we will in the following present two groups, regarding those who do not conform to the hitherto predominant sex/gender norms, that this publication is primarily concerned with: people who feel they do not belong to the sex/gender assigned to them at birth are in the following referred to as trans persons. Those whose physical features cannot be reduced to one of the two standard sexes, i.e. female or male, are referred in the present publication as intersex persons. Correspondingly, children and adolescents are referred to as trans children/adolescents or intersex children/adolescents. Their situation remains, even in the year 2014, largely uncharted territory, which only very few parents, families or professionals have had a glimpse of, often through the presence of a child who does not conform to the hitherto valid, binary sex/gender order.

The conference and the present publication continue the cooperation between the association Intersex & Transgender Luxembourg (resp. its precursor Transgender Luxembourg) and the University of Luxembourg, which has been maintained since 2010, and open a new chapter for gender research in Luxembourg. From the very beginning, the association Intersex & Transgender Luxembourg has, apart from the distribution of information for and the support of children, adolescents and adults and their families, devoted itself to the further education of professionals in all those occupational areas which are relevant for intersex and trans persons, particularly in the fields of medicine, law and the educational sector, and has conducted debates with policy makers. In addition, the association has consistently sought contact with research institutions. The embedding of these gender issues in a scientific and empirical context has been achieved by the university research group Gender Studies, established in 2003, which has since become the Institute of Gender, Diversity and Migration at the University of Luxembourg, in cooperation with the University's Gender Representative.

On the part of the university, the thematic focus on research of intersex and transgender issues represents a consistent advancement of women's studies towards a research initially guided by a binary, and later a more plural approach to sex/gender orders.

The conference of 2012 was preceded by two jointly organized conferences in the years 2010, 'All sexes/genders are present in nature ... but not equal before the law' ('Alle Geschlechter sind in der Natur ... aber nicht gleich vor dem Gesetz'), and 2011, 'Identities Beyond Facts & Ideologies' ('Identitäten jenseits von Fakten & Ideologien').

These events, which remained largely unnoticed by the public and professional circles, had from the very start been geared towards an international, interdisciplinary, empirically based, theory-forming and practical orientation. The collaboration further comprised the organization of joint teaching events which met with a highly concentrated and sustained interest on the part of the students.

We would like to thank the President of the University of Luxembourg (2005-2014), Prof. Dr. Rolf Tarrach, not only for supporting the matter of all these events and the present publication, but also for his long-standing and constant encouragement to include issues beyond the gender mainstream in the spotlight of scientific and social debates. Our thanks also go to Mars Di Bartolomeo, the minister of health at the time, for the patronage of this conference, as well as to the Luxembourg *Fonds National de la Recherche* (FNR) for providing extra financial funding, enabling us to stage the conference on which this publication is based. We thank all authors, translators, and the layout designer. Many

of those who helped and supported us in accomplishing the wide range of tasks necessary for the success of a publication of this kind remain unnamed here. We would at this point like to thank them sincerely for their dedication, as well as the team of the publisher 'transcript' for its unfailingly patient, creative and pleasant support.

In the *first* of six chapters, the present conference proceedings 'Normed Children' suggest the topic of a conceptual understanding of gender as a continuum, as changeable, polypolar and plural, without disregarding the problem of a simplifying and labeling attribution. Subsequently, the question of complex forms of existence that can become muddled to the detriment of normative orders is discussed, followed by issues of sex/gender identities in connection with human rights. The topical framework concludes with the examination of aspects of non-discrimination in the context of gender debates.

The *second* chapter is devoted to a more detailed discussion of categorization and places it in relation to non-compliance with normative precepts and the possible consequences resulting from it. The term 'human sex/gender-related constitutiveness' is examined for its epistemological and ethical relevance, followed by reflections on if and how it is possible for anyone to avoid categorizations. The chapter concludes with replies to the questions 'Who has a disorder? Who gets to decide this?' and finally presents an artistic take on sex/gender.

Biomedical approaches constitute the focus of the *third* chapter, which begins with an investigation of the sexuation of anatomy, goes on to discuss the predictive power of genes and DNA on the development of the genital tract, and presents the example of a Cuban government-funded project in the health sector as an innovative way of dealing with plural forms of sexuality, sexes and bodies by making and questioning connections between sex/gender norms frequently regarded as universal, and medicine, as well as changes in approaching norms.

The *fourth* chapter addresses issues of sex/gender normativity with regard to trans identity from various perspectives, with one particular focus being on aspects of definitional power and self-determination of trans children, and another on the presentation and discussion of innovative concepts dealing with hormone blockers at the beginning of puberty, as well as on issues of reproductive medicine in the context of genetical and biological trans parenthood.

The *fifth* chapter centers around a multi-faceted discussion of sex/gender normativity and inter-sex/gender-related constitutiveness. The emphasis in this chapter lies on the representations of personal realities from the perspective of intersex persons, including the accompanying demands for the recognition of non-normative notions which are not reflected in the framework of a heteronor-

mative and binary matrix of sexes. The legitimacy of medical measures is questioned in view of this, followed by a discussion of the rights of intersex persons as well as the resistance of the medical field against criticism of intersex activists whose actions target operations on the frontline of credibility.

The *sixth* chapter is devoted to the field of education and shows the influence of sex/gender norms, particularly in the context of school and over the course of childhood and adolescence. This chapter explores the significance of the parent-child bond for the development of humans, describes the conveyance of gender competency in the education of biology teachers using a practical example, subsequently investigates the connection between cultural sex/gender-related constitutiveness and trans children, presents gender-plural educational offers beyond a binary sex/gender order and discusses the connection between trans identity and puberty.

The publication concludes with an unusual review of the conference, reflecting on optimism, happiness and other cruelties of a conference on gender norms.

As editors of this volume we hope to reflect the diversity of the conference held in September 2012 in Luxembourg, which continues to reverberate to this day, and thus to contribute to a debate which has only just begun and which offers a chance to do more justice to the plurality of life forms.





# CHAPTER 1: THEMATIC FRAMEWORK



# Always Gender – Always Different<sup>1</sup>

## An Attempt at a Definition

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*Christel Baltes-Löhr*

### SUMMARY

The present article attempts to define sex/gender in its physical, psychological, social and sexual dimensions. It draws on pluridimensional concepts of identity that regard gender, age, ethnic orientation, economic status and physical constitutiveness as interwoven and mutually influencing each other (Baltes-Löhr 2006, 2009), and further, on an understanding of constitutions of the subject that form identities and differences via processes of attribution and appropriation. Gender is thus perceived as situated along a continuum and as modifiable, polypolar and intersectionally situated. The point is not to arrive at specific definitions of femininity, masculinity, transgender or intersex, but rather to attempt to establish a definitional framework which could apply to all genders and seeks, in the sense of doing gender, to combine a discursive-performative perspective of processes of gender construction with a symbolic-interactional one.

### CONCEPTUAL CONFUSION – UNAMBIGUOUS AMBIGUITIES

Before, during, and in the aftermath of the conference ‘Gender Normativity and Effects on Childhood and Adolescence’ (‘Geschlechternormativität und Effekte für Kindheit und Adoleszenz’) that this publication is based on, it became evident that there is currently a considerable struggle within the field of transgender and intersex, but also in Gender Studies in general, to resolve issues around the nomenclature of key concepts. The terms ‘transgender’ and

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**1** | Original version in German. A further developed approach is published in Cultural and Religious Studies, Vol 6, Number 1, January 2018; New York: David Publishing, DOI:10.17265/2328-2177/2018.01.001, pp. 1-32; entitled: What We Are Speaking About When We Speak About Gender? Gender as a Continuum. There the author also developed the new terms ‘transity’ in order to replace ‘transsexuality’ or ‘transgender’, in German ‘Transgeschlechtlichkeit’ and ‘interity’ in order to replace ‘intersexuality’, in German ‘Intergeschlechtlichkeit’.

‘intersex’ and the concept of homosexuality are frequently mentioned in one breath, often utterly disregarding the fact that transgender and intersex persons do not wish to see themselves reduced to a particular sexual orientation, however it may be defined. Helga Bilden for example speaks of the “great variety of genders and sexualities” and mentions “lesbians, gays, bisexuals, intersex persons, transsexuals, transgender persons”<sup>2</sup> in one breath and without further comment (Bilden 2001: 144). Michael Becker, too, bundles “a-, bi-, homo-, inter- and trans-sexuality”<sup>3</sup> (Becker 2008: 18) together without any attempt at differentiation. The extent of this entanglement of trans- and intersexuality with homoerotic orientations is also evident in the name of the so-called IDAHO Day. IDAHO Day stands for ‘International Day against Homophobia’ and has been, after continuous and widely-debated extensions, expanded to IDAHO-TI, ‘International Day against Homo-,Trans\*- and Inter\*phobia’. A similar concept applies to the self-description of non-heterosexual persons in the so-called LGBT community, which refers to the terms ‘Lesbian, Gay, Bisexual and Transsexual’. In this too, there is a current discussion over the expansion of the acronym to LGBT-I, in order to include the group of intersexual persons in all its diversity. However, this in itself does not yet resolve the necessity of avoiding the reduction of intersexuality and transsexuality to the aspect of sexual orientation. Nor does it further the point for queer theoreticians to emphasize that queer approaches consciously seek to avoid categorization, since categories always need to exclude as well. This assumption, in its connection with the proposed definition of the term ‘gender’, will have to be reassessed when discussing the permeabilities of categorical delimitations. The abolishment of the categorial order which has been partly demanded within the field of queer theory seems (Butler 2009: 18f.), particularly in the light of the persistence of heteronormative, categorially supported forces of influence (Baltes-Löhr et al. 2010), to be of little use if the goal is to achieve a removal of taboos and an equal presence of preferably all forms of gender.

The novel ‘Stone Butch Blues’ (1993) by Leslie Feinberg allows an insight into the complexity of the issue of terminology. Against the backdrop of the McCarthy era (1947-1956) and the associated persecutions of homosexuals in the USA, the novel describes the protagonist, who is living as a lesbian, bio-morphologically female woman, wanting to change her sex, and the conflicts this creates with her lesbian, bio-morphologically female girlfriend, who does not want to live with a man. The novel shows very poignantly how deeply homoerotic relationships can remain entrenched in a binary logic as well and

**2** | Personal translation of: “Vielzahl der Geschlechter und Sexualitäten”; “Lesben, Schwule, Bisexuelle, Intersex-Personen, Transsexuelle, Transgender-Personen.”

**3** | Personal translation of: “A-, Bi-, Homo-, Inter- und Transsexualität.”

how productive it could be to release gender as well as sexual orientations out of a rigid heteronormative brace.

The influence of this heteronormative discourse is also evident when searching for films addressing the subject of transsexuality. The internet shows a list of 43 titles which, beginning in 1953 and including several coproductions, were directed in Argentina, Australia, Belgium, Germany, Denmark, France, Greece, Great Britain, Iran, Japan, Canada, Austria, Switzerland, Spain, Thailand and the USA.<sup>4</sup> We are not concerned with film analysis in this context, but rather with the fact that the search for films on the topic of intersexuality does not produce such a neatly organized list and instead, specific films are discussed on the internet. It is furthermore noteworthy to mention that many of these films are listed on the list of transgender films.<sup>5</sup> This, then, suggests that everything which is not considered hetero is easily subsumed in a different category, in this case the term 'transgender', and this regardless of whether and how the subsumed parts or aspects fit together or not.

A further example of ambiguous terminology is provided by the magazine GEO – Seeing the World with Different Eyes.<sup>6</sup> In the edition of December 2013 GEO headlined: 'The search for personality. The girl within the boy: The joy and suffering of gender-variant children'<sup>7</sup> and ran the accompanying article 'Boy? Girl? I am me!'.<sup>8</sup> The issue of gender variance is illustrated via the example of a holiday camp in the USA where gender-variant children can meet and live the way they want to – without omnipresent binary gender norms, without gender-connoted hostilities and without being teased. Parents of children who do not want to be fitted into one of the two dominant gender roles share their experiences and ask themselves: 'Why does the question of an unambiguous gender identity bear such incredible weight?'<sup>9</sup> (GEO 2013: 106). However, this article still refers to the concept of the child in the wrong body (GEO 2013: 108), which suggests that there exists such a thing as the child in the right body and that every other, variant child has something that is not right. The body normatively defined as the right one marks all other bodies as wrong and thus not conforming to the norm. What becomes very obvious here is that norms do not, as it were, serve to display the pluralities lived by different people, but that people are measured by the degree to which they are able to comply with these

4 | See URL: [http://de.wikipedia.org/wiki/Liste\\_von\\_Transgender-Filmen](http://de.wikipedia.org/wiki/Liste_von_Transgender-Filmen), in 2014.

5 | For instance the films *XXY* (Germany, 2007) and *Tintenfischalarm* (Austria, 2006).

6 | Personal translation of: "Die Welt mit anderen Augen sehen."

7 | Personal translation of: "Persönlichkeitssuche. Das Mädchen im Jungen: Vom Glück und Leid geschlechts-varianten Kinder."

8 | Personal translation of: "Junge? Mädchen? Ich bin ich!"

9 | Personal translation of: "Warum bloß wiegt die Frage nach einer eindeutigen Geschlechtsidentität so unglaublich schwer?"

norms. Back to the GEO edition of December 2013: In addition to the report on the holiday camp, the terms ‘intersexual’, ‘gender-variant’, ‘transvestite’ and ‘transsexual’ are discussed in a glossary (GEO 2013: 112). It becomes all too clear how the naming of intersexual, gender-variant, transsexual, trans-identical persons as well as transvestites – despite the editors’ assumed educational intention – implicitly upholds the normative standard of the two-gender system, if an unambiguous biological gender is given as a point of departure for variances or changing gender identities. The same pattern is displayed in explanations about transvestites, who according to GEO are marked by the feature that they wear clothes of the opposite gender without wanting to physically belong to another gender (GEO 2013: 112). The prevailing binarity of the gender order of female/male is not questioned. This may also serve as a clear example of what it means to stabilize the own (German: *das Eigene*) by declaring what is not one’s own’ (German: *das Nicht-Eigene*) as different or variant.

In 2008 Janina Stührmann alternatively interprets transsexuality and trans-identity as a perceived deviation from the gender assigned at birth (Stührmann 2008: 9). Here the entry in the civil register becomes the normative guideline from which the perceived gender deviates. If, until the beginning of the 21<sup>st</sup> century, in Western Europe and the Anglo-Saxon countries children with ambiguous physical sexual characteristics were often assigned one gender via surgery, this also means that they were not granted the space to develop a gender of their own and that major surgery, for instance the creation of a vaginal structure, was performed on their healthy bodies. Parents had to make momentous decisions for their children, frequently in a still completely tabooed space invariably marked by wrong or partial information or a lack of it. For a long time this space had been dominated by the power of medical professionals, who during their education had usually only been presented the pathologizing perspective on ambiguous physical genders, and only fairly recently has this dominance been, at least in some small degree, challenged by the emergence of parent self-help groups and so-called ‘affected’ adult parties. In the light of all this it is of far-reaching significance that the amendment of the German civil register law of 1 November 2013 (§ 22, 3) provides for the following: “If the child can be assigned neither to the female or the male gender then the civil status event shall be recorded without this information in the registry of births.”<sup>10</sup> (Federal Law Gazette 2013 Part I, p. 1122).

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**10** | Personal translation of: “Kann das Kind weder dem weiblichen noch dem männlichen Geschlecht zugeordnet werden, so ist der Personenstandsfall ohne eine solche Angabe in das Geburtenregister einzutragen.”

So far, we have established that firstly there is a lack of terminological clarity regarding the terms ‘transgender’, ‘transsexuality’ and ‘intersex’, and secondly that anything that does not fit into the grid of the still dominant heteronormative discourse is quickly considered different, variant, deviating, or even wrong. It further became clear that genders which are not conceived as either female or male are often sexually connoted and frequently located in the proximity of homosexuality, which may not correspond to the lived realities of intersex and transgender persons. However, the strong effect of heteronormative sexual dualism should not obscure the fact that even the definitions of the two genders female and male have somewhat faltered. The apparently unambiguous physical sex has been called into question, since not all persons with a vagina also have an elevated bosom and ovaries as adolescents or adults, a similar estrogen concentration or the same set of XX chromosomes. Similarly, persons with an XY chromosome do not always have a penis, testicles and the corresponding testosterone level. This variance in the combination of the various corporal-biological components suggests that one can no longer speak of a biologically unambiguous sex (see Henke et al. 1998: 43-64). All these assessments support the assumption that a terminological definition of gender that encompasses all possible genders is needed. If this term is difficult to define, then it can be assumed that this difficulty reflects the complexity of the matter itself. All the more reason to attempt as comprehensive a definition as possible.

## **GENDER AS A DIMENSION OF IDENTITY, DIFFERENCE AND SUBJECTIVITY**

It seems obvious that for many people, gender is connected to what they understand, comprehend, feel, perceive, accept or reject as their self, their I, their identity, their own subjectivity, their difference from others. Personality as well as individuality continue to be viewed as being strongly connoted with gender. For a long time gender was regarded as the structural category not only for societal orders, but also for the personality, individuality and identity of every human being. Besides gender, dimensions or sections such as age, ethnic origin, corporal and physical disposition, religious and ethical and moral orientations, together with a pluridimensional and intersectional conception of identity, play a significant role when it comes to finding an understanding of what comprises or can comprise human beings in their human being-ness. Thus, what we are concerned with here is to explain which identities or differences are assigned to human beings and which they appropriate, and how these negotiation processes should be defined.

## And again: identities and *différance*

Refers to Zirfas (2001), concepts of identity such as formulated by Mollenhauer and Welsch, concepts of core identities and fixed self-identities have been abandoned. Nevertheless, notions of the term 'identity' as based on a "coherent and continuous performance of synthetization and integration which allows the individual to address themselves across space and time as 'I'"<sup>11</sup> (Zirfas 2001: 52) continue to remain virulent. On the other hand, deconstructivist concepts of identity following Derrida should not serve as the band to unify these differences in the sense of Welsch. Identity consists "of the dispersing bands of the differences themselves: in this sense the search for identity is a search for traces."<sup>12</sup> (Zirfas 2001: 61). This trace runs, writes Zirfa, "from the integrating identity to the disintegrating difference, from the I to the other."<sup>13</sup> This is therefore a question about an identity "which is marked by differences and differentiations of the other."<sup>14</sup> (Zirfas 2001: 60). Representing the own in the other and the other in the own and thereby wanting to do justice to oneself and the other – according to Zirfas drawing on Derrida, this may be what is meant when we speak of identity as an experience of the impossible. Derrida is not concerned with relationalization, like Mead's symbolic interactionism (1934) is with the relationship between I and Me, wherein the I is reacting to the attitude of others and representing the will, the uniqueness of a person, their own aspirations and their biographical uniqueness, and the Me, the Generalized Other, is indicating conventions and habits, social adaption and recognition and the functionality of the individual in society. Derrida however points out that "in the idea of the I [...] there is always a different idea at work."<sup>15</sup> (Derrida quoted by Zirfas 2001: 53). If Derrida uses the term '*différance*' to denote "that every meaning can only ever be expressed within a deferral, a delay, a deliberation or a retrospect"<sup>16</sup> (Derrida quoted by Zirfas 2001: 55), then *différance* also means repetition, interval and distance. *Différance* signifies an event which is repeated in language through the act of speaking, but can never be represented in its entirety, so that one can speak of continuous shifts of meaning (Zima 1997: 167). Identity, the construction of which depends on events, experiences and the act of speaking, thus seems to

**11** | Personal translation of: "Identität liegt eine kohärente und kontinuierliche Synthetisierungs- und Integrationsleistung zugrunde, die es dem Individuum erlaubt, zu sich selbst über Raum und Zeiten hinweg 'Ich' sagen zu können."

**12** | Personal translation of: "Identität besteht aus den zerstreuenen Bändern der Differenzen selbst: Identitätssuche ist insofern Spurensuche."

**13** | Personal translation of: "Die Spur geht von der integrierenden Identität zur desintegrierenden Differenz, vom Ich zum Anderen."

**14** | Personal translation of: "Die sich durch Differenzen und Differenzierungen des Anderen auszeichnet."

**15** | Personal translation of: "In der Vorstellung des Ich ist immer schon eine differente Vorstellung am Werke."

**16** | Personal translation of: "Différance meint, dass jeglicher Sinn immer nur in einem Aufschub, einer Verzögerung, einem Kalkül oder einer Nachträglichkeit zum Ausdruck kommen kann."



congeal into a fleeting occurrence. Following Deleuze (1968) it should also be assumed that repetition can never be repetition of the same, because the repeated elements cannot be encompassed by a term common to all of them as an origin. Consequently he wants repetition to be seen as a repetition of the not-same, the non-identical, the diverse. This view of repetition corresponds to the diverse subject. “The subject of the eternal recurrence is not the same, but the different, not the similar, but the dissimilar, not the one but the many, not the necessity but the coincidence.”<sup>17</sup> (Zima in reference to Deleuze, Vattimo, Lyotard 1997: 169). We could add: The subject is not that which is confined, but rather that which is not defined within its confines. However, these performative repetitions harbour possibilities to bring forth multiple new aspects of an object, so that dually and dichotomically arranged hierarchies can change, shift, dissolve, but also stabilize themselves. In this sense, repetition can have a de-homogenizing and heterogenizing effect, can make room for plurality and differences, and at the same time bring out similarities or reject them. The new is thus always created in relation to something, mostly to what is old, traditional, known. The new emerges within slowly shifting changes. The now is now past. The new now, that which is conceived in the future, is now already the past now of just a moment ago.

### Performance and repetition

If events, the world, realities, representations of realities are embedded in processes of linguistic performance, this does not signify the denial of materiality, but rather the reality-constructing effect of performative actions. If a performative action is “one which produces or stages that what it names” (Butler 1993: 123) then repetitions become significant, and with them subversive shifts of meaning which then become possible. Diversities can be represented, in the full knowledge that a performative action, a performative act and the concomitant descriptions and definitions can never claim to represent the entire object or the object in its supposedly correct or indeed true meaning. Originals that existed prior to the performative act are negated. The performative repetition always refers to a something which is considered different.

With an approach like this, combined with the ethno-methodologically and interactionistically oriented assumptions, one could explain the production and construction of realities by showing how what appears to be a virtually unlimited range of possibilities can, in reality, transform into very concretely ascertainable facts. Gender could be conceived of as both interactively and discursively/performatively produced (Meissner 2008). Regarding the construction processes of

**17** | Personal translation of: “Das Subjekt der ewigen Wiederkehr ist nicht das Selbe, sondern das Differente, nicht das Ähnliche, sondern das Unähnliche, nicht das Eine sondern das Viele, nicht die Notwendigkeit, sondern der Zufall.”

gender one could, besides ethno-methodological and interactionist approaches of doing gender (West/Zimmermann 1991) and discourse-analytical and performative approaches, consider psychoanalytical approaches that build on the inner experiences of individuals (Bildén 2001: 144). With reference to Goldner, Bildén points to the possibility that “an unambiguous gender identity [...] is a result of pathological processes, in which everything that does not fit into the respective cultural or environmental idea of gender is denied, dissociated or relegated to the underground through other defensive reactions.”<sup>18</sup> (Bildén 2001: 142). Drawing on Dimen, Bildén emphasizes the possibility that adhering to one pole of the gender dualism could hint at a split in the self (Bildén 2001: 142). In order to overcome a suspected split such as this, Dimen offers the concept of interstitial spaces, spaces that are occupied by differences, i.e. spaces between male and female, active and passive, subject and object (Dimen quoted by Bildén 2001: 142 f.). What is remarkable is that according to Dimen, the interstitial space is inhabited exclusively by differences but not similarities, and that the differences are considered as situated between the two poles of female and male.

### Potentialities and factualities

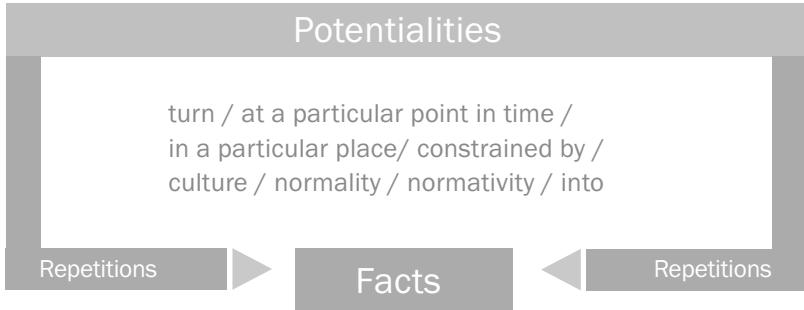


Figure 1: From potentialities to facts (see Baltes-Löhr 2006: 30)

These two terms are by no means to be understood as a dualistic opposition, but instead as interwoven aspects of a continuum. People can be regarded as being equipped with a broad range of possibilities, potentialities. This is also relevant for gender and gender relations. Based on the assumption of the construction of gender as a continuum, normatively legitimizing and categorizing bundlings contribute to producing femininity and masculinity, which then often create the impression as being laid down by the laws of nature. At a certain point – de-

**18** | Personal translation of: “Dass eine eindeutige Geschlechtsidentität ein Ergebnis von pathologischen Prozessen sei, in denen alles, was nicht in die jeweilige kulturelle oder Milieu-Vorstellung von Geschlecht passt, verleugnet, abgespalten oder durch andere Abwehrreaktionen in den Untergrund geschickt wird.”

pending on the socio-cultural notions of a certain place, depending on what is regarded as normality and depending on which values and ideas are recognized as norms – possibilities become characteristics and abilities or facts.

### **The relevance of assumptions of performance theory for gender**

If definitions, the production and stagings of, for instance, gender can be seen as repeated performative acts in time and space, then potentially subversive repetitions also harbor possibilities of breaking through dominant discourses, for example regarding gender, and to multiply the bipolarity of the gender order by making other facets of gender visible. In this way diversities can be represented, differences can become legitimate, and not least be regarded as normal. Women, men, transgender and intersex persons need not be understood as a homogeneous group, characterized by essential features. Gender images and ideas about individual gender groups are also variable. The borders between categories are porous and permeable. Via namings, matters become, for instance, bodies and gendered bodies, bodies become genders, spaces become national territories, sinners become pure once more through the three words “Ego te absolvo”. People become couples by a third person saying: “I hereby pronounce you husband and wife”. It is not contrition that liberates sinners from their supposed burden of sins, and it is not love that makes a couple become a couple, but rather the spoken word of the registrar. One particular, remarkably performative phrase is familiar to all Roman Catholics when every year at Christmas the Gospel of John is quoted: “And the word became flesh.” (Gospel of John 1,14), thereby announcing the birth of Jesus. Back to our subject: With regard to gender we have to emphasize Jutta Hartmann's statement that “performativity generates the subject, but it does not determine it.”<sup>9</sup> (Hartmann 2001: 76). Performative construction processes are therefore always regarded as open-ended.

If facts or realities are constructed out of potentialities via performative acts, then this, with regard to the construction of gender, can mean that people are born with the possibilities of constructing a gender. A subject can be perceived or perceive itself as belonging to a gender, depending on the point in time (gender variability: in this context historicity of birth); on socio-culturally prevailing discourses and orientations (gender variability: in this context normativity of gender); on spatial circumstances (a dimension of an intersectionally conceived gender); on corporal circumstances (corporal/physical dimensions of gender); on social attribution and individual subjective appropriation (social dimension of gender; aspect of attribution and appropriation of gender); and depending

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**19** | Personal translation of: “Es gilt zu unterstreichen, dass Performativität das Subjekt zwar erst hervorbringt, sie determiniert es aber nicht.”

on sexual desire, sexual orientation and sexual practices (sexual dimension of gender). Combinations of the various gender dimensions are conceivable. Thus, a person with a penis but without testicles can dress in a skirt, put on makeup, speak in a deep voice, be forceful and competitive, musically gifted and live heterosexually with a person with a vagina, an elevated bosom, facial hair and a socially more prestigious professional status, who is dwarfing the former person by a head's length. Groups with similar characteristics could then form a gender group or attribute themselves to a group with similar combinations of gender dimensions. These self-attributions could vary depending on the situation and change over the course of a biographical life. Affiliations could be attributed or personally appropriated. They can change just as much as the understanding or the notions of what is considered, at a certain point in time, as normality in a particular place, depending on the socio-cultural notions, on which values and notions are recognized as norms and on what is to be understood as a particular gender in a particular place and at a particular time, and how subsequently appropriated genders can in turn influence exactly these factors and aspects in a particular place and at a particular time etc. This is what is meant by mutual construction processes of gender, constitutions of the subject and categorial orders. This is what is meant by construction processes in which aspects of performance, of repetition and of norming play remarkable roles.

This makes clear which significant role human beings themselves can play in the construction process of their subjectivity, their individuality, when recognition processes are considered in the context of attributions – appellations, according to Althusser (1977) – and appropriations in the sense of reversals or denials of the appellation. Recognition processes and thus construction processes of genders need to be seen in their polyphony, and it is the task of science and academics to reveal these polyphonies and retrace their variability.

### **Fields of tension surrounding a definition of gender**

Since the early 1990s and with the realization of the constructedness of gender, the differentiation between sex, gender and desire became a familiar one, particularly through the writings of Judith Butler (1991, 1995, 1997); sex often referred to the so-called biological gender, gender stood for the so-called social gender, and desire for the expression of sexual desire or sexuality.

In the understanding of doing gender, the so-called social gender signified the assumption that people are, in a way, socialized into specific gender roles. The assumption that people are turned into women and into men, as Simone

de Beauvoir already claimed in 1949 with regard to women when she said: “One is not born, but rather becomes, a woman.” (de Beauvoir 1949). By contrast, sex, i.e. the so-called biological, corporal, physical gender, continued for a long time to be perceived as unambiguous, meaning either unambiguously female or unambiguously male. With Judith Butler’s equally seminal work “Bodies that Matter” (Butler 1993) and with expanding research in the field of biology (see Streckeisen 1991: 158 and Henke et al. 1998: 43-64), the constructedness and the supposed unambiguity of biological gender was deconstructed. It became evident that neither the body nor the biological gender or the gendered body could be defined by the bipolar order of a biological male and female gender. Desire, sexual desire and sexuality were for a long time neglected in a debate that was often reduced to sex-gender, and were discussed most frequently in the context of discriminations of persons with homoerotic orientations and lifestyles.

### **The blocking out of transgender and intersex persons**

Transgender and intersex persons are the subject matter of queer theory, which has established itself since the 1990s, in most cases rejects all categorial orders whatsoever and “opposes those who would regulate identities or establish epistemological claims of priority for those who make claims to certain kinds of identities.” (Butler 2004: 7). In approaches adopted by developmental psychology and pedagogy these gender groups often remain unmentioned (Abriß 2006; Gesell 2008; Hoffmann 1997; King 2013; Kühn 2006; Sporbett 2009), are regarded as disruptions as well as disorders (Hartmann/Becker 2002; Vetter 2010), and in the field of health practice are frequently considered a phenomenon to be dealt therapeutically (Averkamp 2012). Additionally, transgender and intersex persons are defined as competing groups: “One tension that arises between queer theory and both intersex and transsexual activism centers on the question of sex assignment and the desirability of identity categories. If queer theory is understood, by definition, to oppose all identity claims, including stable sex assignment, then the tension seems strong indeed.” (Butler 2004: 7). What transgender persons are in part fighting for, i.e. a life in a male or female gender and correspondingly in the respective gender body, which should, if necessary, be produced with the help of hormone intake or surgery, seems at first glance to be in opposition to intersex persons who often insist on being recognized in the, with respect to the prevalent bipolar gender order, ambiguous situatedness of their gender. The question now is how to include and regard as equally legitimate within a theoretical foundation both the desire for unambiguity and the desire for the recognition of a gender hitherto defined as ambiguous in terms of bipolarity.

### Connotations of transgender and intersex persons with homosexuality

Even though according to Laura Adamietz homosexuality and transsexuality should, thanks to the early 20th century works of Krafft-Ebing, Hirschfeld und Ellis, be regarded as separate phenomena (Adamietz 2011: 102), with the emergence of psychoanalysis around Sigmund Freud a notion of transsexuality as a flight from homosexuality, combined with a supposed fear of castration, led to an erotization of cross-dressing that endured long into the 1970s and seems to have remained virulent to this day (Adamietz 2011: 103). If transsexuality was again established as an independent concept in the medical field, primarily due to the work of the American doctor Harry Benjamin, who furthered the development of surgical possibilities and harbored a certain disillusionment with the effectiveness of psychotherapeutic measures (Adamietz 2011: 103), then one should note that Benjamin's concern was a surgery that transformed men into women and the creation of a "class of transsexuals [...] who were [according to Benjamin] absolutely in need of treatment and whom he sought to demarcate from other less severe cases."<sup>20</sup> (Adamietz 2011: 103).

Assumptions about transsexuality have shifted to a more open concept since the 1970s, not least due to the debates of the women's movement. If transsexuality as such was understood primarily in medical terms and as a gender identity disorder (Adamietz 2011: 34, 37), then Adamietz notes that the term 'transgender' could induce a depathologization and that the pronounced differentiations between pre- and post-operative phases, and thus between so-called transvestites and transsexuals, become irrelevant. She further points out that not all those persons she refers to as transidentical seek a surgical or hormonal adjustment of their body (Adamietz 2011: 37). Adamietz emphasizes that the term 'transgender' is not regarded as conclusively defined either; according to her there is "among those concerned no consensus about its meaning."<sup>21</sup> (Adamietz 2011: 38). She goes on to say that this umbrella term should denote a range of subjectivities that are in conflict with traditional gender norms and stereotypes and should not be used as an instrument for exclusions (Adamietz 2011: 38). Intersexuality, the phenomenon to be understood as a gender that can be attributed neither to one nor the other of the two prevalent genders, is considered by Adamietz as evidence for the "faultiness of the assumption of absolutely natural sexual dualism."<sup>22</sup> (Adamietz 2011: 105).

Intersexual persons, she writes, are often forced to reassign themselves to one of the two prevalent genders by means of surgery, since, at least as yet, "the

**20** | Personal translational of: "Klasse von Transsexuellen [...], die unbedingt behandlungsbedürftig seien, und diese von anderen weniger schlimmen Fällen abzugrenzen."

**21** | Personal translation of: "Unter den Betroffenen besteht kein Konsens über seine Bedeutung."

**22** | Personal translation of: "Transsexualität ist nach Adamietz zu verstehen als Beleg für die Fehlerhaftigkeit der Annahme absoluter natürlicher Zweigeschlechtlichkeit."

reigning order of sexual dualism is unable to recognize a ‘third gender’.”<sup>23</sup> (Adamietz 2011: 105). Thus we must at this point differentiate between those persons who do not wish to assign themselves to either a male or female gender, and those who disagree with the gender attributed to them mostly on the grounds of present physical features, and who may or may not seek a surgically or hormonally produced change.

### Other cultures – other genders

From 25 November 1997 to 8 March 1998 the Rautenstrauch-Joest-Museum für Völkerkunde (Ethnological Museum) in Cologne, Germany, hosted an exhibition titled ‘She and He. Woman power and male domination in a cultural comparison.’<sup>24</sup> The exhibition as well as the accompanying volume specifically addressed the issue of ‘third gender and changing identities’<sup>25</sup> – a novelty and at the same time an expression of the changing debate in the context of the women and gender research which was virulent at the time (Völger 1997).

The exhibition acquainted visitors with the Guevedoces, a term used for a group of people living in the Dominican Republic. At birth they cannot be unambiguously identified as either male or female. Often, a masculinization sets in with puberty, which however does not change the respective person's status of being a Guevedoce, a status which allows some leeway between being a woman and being a man. Another group represented in the exhibition were the Kwo-lu-Aatmwol of Papua New Guinea who, in expectation of a pubertary masculinization, are raised in a gender-spanning fashion with a tendency towards the male principle and thus develop identities beyond the familiar concepts of femininity and masculinity. As a third gender they are neither discriminated against nor particularly highly esteemed. Additionally the exhibition highlights the Muxe in Juchitán, Mexico, and the Hijra in India. What was remarkable was there being no mention of a third or fourth gender in the European region, which nowadays, more than 25 years later, seems hardly conceivable, considering that since the 1990s debates within women's and gender studies have changed and binary, heteronormative patterns have been increasingly questioned while pointing to the constructedness of genders, with the term ‘gender’ continuing to be unambiguously ambiguous.

<sup>23</sup> | Personal translation of: “Die geltende Ordnung der Zweigeschlechtlichkeit vermag keine ‘dritten Geschlechter’ anzuerkennen.”

<sup>24</sup> | Personal translation of: “Sie und Er. Frauenmacht und Männerherrschaft im Kulturvergleich.”

<sup>25</sup> | Personal translation of: “Drittes Geschlecht und wechselnde Identitäten.”

## ATTEMPTING A DEFINITION OF GENDER

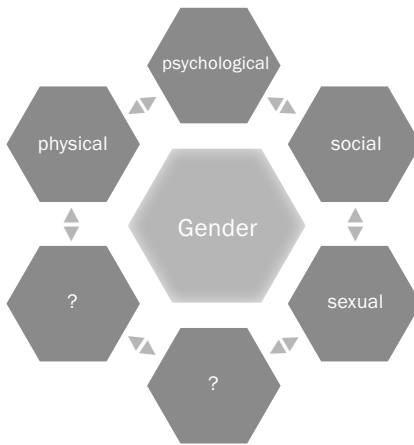


Figure 2: Gender and Gender Dimensions.

Gender comprises,

- in its physical dimensions, biomorphological, genital, chromosomal, gonadal and hormonal characteristics (corporal or physical gender),
- in its psychological dimensions emotions and cognition; these psychological dimensions describe the feeling as well as the self-perception of gender and thus oscillate between attribution and appropriation, or put differently, between attribution by others and

self-attribution, and turn into self-designations which may or may not more or less agree with the definitions or descriptions by others (psychological gender),

- in its social dimensions the gender roles that describe a person's behavior as belonging to a certain gender; this role behavior includes facial expressions, gestures, speech volume, posture; this also comprises societal presence, as for instance gender presence in various areas of society, and also attributions of functions such as certain forms of division of labor, but also the attribution of responsibilities regarding various areas of society, such as politics/public sphere, private life/family, job market, educational sphere, science/research, art (social gender),
- in its sexual dimensions sexual desire or sexual orientation such as monosexual, asexual, bisexual, heterosexual, pansexual, but also sexual practices such vis a fronte and vis a tergo forms of sexual intercourse, sadomasochism, exhibitionism; these dimensions also concern the relational forms of sexual gender such as monogamy, polygamy, polyamory and corresponding institutionalized forms of relational sexual gender such as marriage, registered partnerships, non-registered partnerships with one or more partners, singles (sexual gender).

To indicate that this definition of gender is to be regarded as open-ended, two boxes have been left blank in the figure 'Gender and gender dimensions'.



Having defined gender in this way, it is possible to conceive of a great variety of combinations between the elements of the different dimensions. This definitional framework aims to enable an equal representation of existing and lived pluralities.

The gender attributed to a person and appropriated by them can be perceived as a part of their identity, without assuming, as explained above, the existence of an identity identity. A person's gender can comprise dimensions of the corporal/physical, psychological, social and sexual gender and is considered modifiable, polypolar, plural and intersectional, terms which will be briefly discussed in the following.

### **A modifiable, polypolar, plural and intersectional gender continuum**

Gender is considered:

- modifiable in the sense that it can shift depending on the historical, socio-cultural, spatial and normative context and can in turn impact these respective contexts. Gender can change in the course of a life's biography, although it should also be emphasized that a gender appropriated in a situation, in a phase of life of shorter or longer duration, can in turn change the life biography. One could thus also speak of a punctual or situative gender (gender variability: historical and normative; punctual/ situative gender);
- polypolar in the sense that gender is understood as situated on a continuum, without any binary, bipolar framing, without binary markers such as unambiguously female or unambiguously male (polypolar gender);
- plural in the sense that polypolar genders are thought of as being situated on a continuum, whereby the individual gender dimensions can shift with respect to each other and multiple forms of gender can be constructed depending on time, space etc. (gender as a continuum);
- gender should also be regarded in the context of an intersectional perspective, with categories such as age, ethnic orientation/ cultural origin, socio-economic status, education and general physical constitution, in order to speak of an intersectionally constituted gender. This also includes the spatial and material dimension of gender (intersectional constitution of gender).

In defining gender in its physical, psychological, social and sexual dimensions as modifiable, polypolar, plural and intersectional in its disposition, as well as in its location on a continuum, we take our leave from the gender category as a binary, dichotomous and heteronormative structural category of societal orders.

### Gender as a continuum

As already mentioned several times, gender is regarded as being situated on a continuum. For the range of characteristics of the category of gender this signifies that all human possibilities/potentialities with regard to the body, psyche, social behaviour, sexuality located on this continuum can become, in the most diverse combinations, genderized characteristics via discursive/performative labeling practices and interactive doing. These characteristics then signify one gender – for a varying period of time, with a more or less far-reaching situational ambit, for a more or less numerous group of people. Specific aspects/characteristics of the physical, psychological, social and/or sexual gender can be joined and combined into one specific gender category. A segment or clusters of characteristics of possibilities situated along the continuum such as this can generate stereotypes which can then, depending on time, place and culture, be attributed as specific characteristics of a certain gender. These segments can comprise elements of the various dimensions of gender (physical, psychological, social and sexual). Such clusters of characteristics that until the 1970s stereotyped, for instance, the female sex as gentle, emotional, weak, maternal, domestic, caring, desiring one – and only one – man, equipped with an elevated bosom, vagina, ovaries and uterus, would, according to the definition attempted above, in the future not be regarded as arranged in a bipolar or binary way, but rather in a polypolar order, which means that the opposition of female and male is void and that other gender configurations, as for instance transgender and/or intersex, can also be regarded as a pole. The clusters of characteristics can encompass the most diverse combinations of human possibilities and be considered as a gender. A person with a beard and bust breastfeeding a child would no longer be regarded as somehow weird or as a sensation. Categorical permeability is no longer considered to be compact, as it was in the previously dominating two-gender order, but rather to be porous, and the categorical boundaries between possible genders are no longer fixed but open and fluid.

In the definition of gender attempted here, plurality is considered the norm, which means that all kinds of genders are considered normal or recognized as normative, and that masculinity and femininity are not regarded as the only valid norms. While the currently still existing gender order assumes that the attributed gender is also appropriated and that everything else is treated as abnormal, deviant or pathological, the suggested definition of gender offers the possibility of representing a higher variance with respect to the attribution and appropriation processes, in the sense that so-called deviations can more easily be regarded as differences that may possibly be considered as belonging to another

gender or another gender configuration. Appellations as defined by Althusser (Althusser 1977) can equally easily be followed by reversals, i.e. acceptance, as by non-acceptance of the gender attributed through appellation. An ontologization as a consolidation of a fixed way of being or of an indissoluble nature of a gender is rejected, so that the true world of believers transforms into an uncertain world for non-believers.

In conclusion, we will once more briefly illustrate the significance of such a definition of gender for the relation of the sexes/genders to one another: The positioning of possible genders towards each other is considered polypolar; all possible genders are regarded as equivalent. At times one gender has a greater force of influence, and at other times it is another one; from this circumstance, however, no structural primacies are derived. The categorial demarcation of the possible genders towards each other is considered to be fluid, permeable and adjustable and thus flexible. The gender order is regarded as plurally constituted; the logic of 'as-well-as' applies; normative patterns emerging in the construction process are considered to be open and reversible and make no universalist claims on validity.

## LOOKING AHEAD

The new definition of gender suggested here aims to do justice to the plurality of gender without one particular gender per se taking precedence over another or being considered superior. This definition is intended as a contribution towards deconstructing the prevalent heteronormative gender order and achieving a gender order of diversity. Genders and gender orders constituted in this way could lead to depathologizations, the removal of taboos and to the general recognition of all those genders which have until now not fitted into the rigid brace of dual sexuality; moreover, this present brace of a rigid bipolar femininity and masculinity could be dissolved. This could also be reflected in linguistic symbolizations. While until the beginning of the 1970s the so-called male speech forms always included everyone, it was in no small part due to the women's movement that female speech forms came into use in order to make women, at that time still understood as a collective subject, visible. In German, *Lehrer* (male teachers) became *Lehrer(innen)* – male(female) teachers – male/female teachers (*Lehrer/innen*), female and male teachers (*Lehrerinnen und Lehrer*) and also *fe/male teachers* (*LehrerInnen*). Eventually the form 'teaching persons' (*Lehrende*) became prevalent, for the first time highlighting the bipolarity of the female and

male designations and replacing them with a form that was able to comprise more than two sexes or genders. The form ‘male\_female teacher’ (Lehrer\_innen) was also intended to contribute to this; however, it can ultimately be read as a preservation of the male and female concepts in their supposed significance as cornerstones or even a limitation of the sexes/genders. In accordance with the attempt to redefine sex/gender as situated on a continuum, the appropriate representation would be to write ‘\_male\_female\_teacher\_’ or ‘\_teaching\_persons\_’ (\_Lehrer\_innen\_). This present attempt at a definition of sexes/genders could also have an impact on the field of research, something not explicitly discussed here due to lack of space. This much we can say: as long as \_male\_female\_researchers\_ (\_Wissenschaftler\_innen\_) continue to presume a sex/gender binary, they will construct “binarities against this background where we could also see a continuum.”<sup>26</sup> (Meissner 2008: 10). A binary sex/gender assumed in the eyes of the beholder leads to the “discovery of a biological, psychological and social binarity.”<sup>27</sup> (Meissner 2008: 10). We hope the present attempt at a definition will contribute to a future in which researchers will set their eyes on diversity, in order to be able to recognize diverse genders.

This moment might also be a good one to consider what a world that got by without the category of gender would look like, if there were no gender whatsoever in the sight of anyone's eye. The amendment of the German civil register law of 1 November 2013 mentioned above has provoked a great deal of debate. Ralf Schuler, for instance, asks in the edition of Bild online from 13 August 2013:<sup>28</sup> “Is Germany abolishing the sexes?”<sup>29</sup> and reassures us by quoting the family expert of the CDU, Peter Tauber, who said to Bild: “The provision enables intersexual people to later decide without pressure how they want to live. Keeping the gender column open was expressly chosen in order not to break with the basic principle of two genders, but to keep it open.”<sup>30</sup> A clear example of how, despite progressive provisions, one can continue to adhere to traditional patterns depending on one's political persuasion – and depending on what is in the eye of a particular beholder. Nevertheless, the Bild article points to similar provisions in India, Brazil, Kosovo and Belgium and says about Australia: “So far Australia

**26** | Personal translation of: [konstruieren sie] “vor diesem Hintergrund Binarität, wo auch ein Kontinuum gesehen werden könnte.”

**27** | Personal translation of: “Entdeckung einer biologischen, psychologischen und sozialen Binarität.”

**28** | See URL: <http://www.bild.de/politik/inland/geschlechtsumwandlung/schafft-deutschland-die-geschlechter-ab-31864862.bild.html> [03.02.2014]. Bild is a populist daily newspaper in Germany.

**29** | Personal translation of: “Schafft Deutschland die Geschlechter ab?”

**30** | Personal translation of: “Die Regelung ermöglicht intersexuellen Menschen, sich später ohne Druck zu entscheiden, wie sie leben wollen. Das Offenhalten der Spalte Geschlecht ist extra gewählt worden, um das Grundprinzip der zwei Geschlechter nicht zu durchbrechen, sondern eben offen zu halten.”

**31** | Personal translation of: “Australien ist bislang das einzige Land der Welt, in dem ein drittes Geschlecht staatlich anerkannt ist.”

is the only country in the world that officially recognizes a third gender.”<sup>31</sup> If we may at this point mention the fact that this country is, after all, an entire continent, then we can observe a general tendency which is also expressed in the GEO edition of 13 December 2013 mentioned above, where Fred Langer, in his comment on the cover topic in which the aspect of hormone treatment of children is investigated, notes with respect to gender reassignment: “The question could be so much less loaded if that of gender – man? or woman? – would lose some of its weight.”<sup>32</sup> (GEO 2013: 108). The regional press has also discovered the issue of the gender order, covering it through remarkable oversimplifications. In the daily paper *Trierischer Volksfreund* of 30<sup>th</sup> December 2013 Jacqueline Maron, a student at the University of Trier, is introduced in her capacity as a co-consultant of the feminist women and lesbians department of the student's union. When she states in the text: “I want to see us moving away from the binary system of gender. I don't see a man, I don't see a woman, I see the person”<sup>33</sup> (*Trierischer Volksfreund* 2013: 12), then the article's headline reads: “Moving away from the gender system.”<sup>34</sup>

As long as this utopia of a world without powerful gender categories is still a dream, one can only reiterate that gender is neither God-given nor preordained by nature, but should be considered as a constantly changing result of construction processes. These construction processes should be regarded both as doing gender and as discursive-performative, and they can do justice to the diversity of human possibilities, because it is this diversity which can be considered natural, as Mariela Castro Espín so succinctly put it: “Diversidad es natural” – diversity is natural.

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**32** | Personal translation of: “Die Frage könnte so viel weniger beladen sein, wenn jene nach dem Geschlecht – Mann? Oder Frau? – an Gewicht verlöre.”

**33** | Personal translation of: “Ich möchte, dass wir uns vom binären Geschlechtersystem weg bewegen. Ich sehe keinen Mann, ich sehe keine Frau, sondern den Menschen.”

**34** | Personal translation of: “Vom Geschlechtersystem weg bewegen.”

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# Human Diversity: To the Detriment of Norms<sup>1</sup>

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*Janik Bastien Charlebois*

## SUMMARY

Based on the assessment that trans and intersex persons currently often do not see themselves regarded as equal and normal human beings this contribution explores the question of what taboos and stereotypical conceptions are still in effect in the contexts of family, education, school, medicine, biology, and law, and which would need to be dissolved for society to be able to move towards greater democracy for all groups of people. The contribution also examines the question which role scholarship and research play or should play here.

## DIVERSITY AND NORMATIVITY

In the past decades norms of sex/gender and sexuality saw themselves under pressure from the societal and political emergence of social groups that deviated from them or challenged them head on, as constructivist feminists, gay, lesbian, bisexual, transsexual, transgender and intersex persons have done. It is only recently that a number of realities and issues which many of us would never have anticipated have begun to demand our attention. Children and teenagers have been expressing their discomfort with the sex/gender assigned to them at birth and wish for their bodies to develop differently or their preferred sex/gender identity to be acknowledged. Persons whose sex had been judged as ‘ambiguous’ by doctors and who were subjected to surgery or hormonal treatment are demanding the required provision of informed consent prior to medical intervention as well as the depathologization of their bodies. Same-gender couples are starting families and some parents are having their registered sex/gender changed. This raises the question whether these persons should have the right to

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<sup>1</sup> | Original version in French.

self-determination of how they present themselves to the world and how they interact with it, for instance allowing children to be addressed with the sex/gender they identify with, and to dress and play the way they want to. The same applies to the question whether teenagers who want hormone blockers to affirm their gender as they wish should be granted access to them, or whether people born with intersex traits are allowed to grow up intact and be welcomed as they are, with the possibility to affirm the gender they identify with (be it woman, man or other), as well as be openly intersex.

These issues involve many social actors: primarily those demanding this autonomy for themselves, and then parents, educators, teachers, psychologists and doctors, to name but a few. Evading these concerns under the pretext that there are but a few intersex and trans persons is not an option, because the situations that engender these issues are not abstract and require from many people that they concretely reflect on them and respond to them. Parents and teachers are obligated to find a way of reacting to a child or adjusting to a child which they have so far treated as a boy, but who identifies herself as a girl and wants to wear a dress at school. And kindergarten educators have to find a way of dealing with the transition of one parent.

An adequate response to these issues requires reassessing deeply rooted assumptions about the connections between the individual and the collective benefit on the one hand and sex/gender norms on the other. In other words: It is the very understanding of sex, gender and sexuality that guides our everyday life behaviour as well as our comprehensive relationship with others as sexual/sexualized beings who are challenged by what first seems like 'exceptional situations'. If we wish to find productive and satisfactory answers it is important that we become aware of the extent of emotions that this issue sparks in all of us, ranging from those who strive for a direct autonomy of gender to those who bring their institutionalized expertise to this field. No one can claim to hold an entirely objective position in these matters. If we as researchers were to lack every emotional attachment to this issue we would be emotionless towards what we consider to be notional misconceptions about the outer and inner sex/gender and sexuality, and we would content ourselves with a one-time statement on what these signify to us. Instead of claiming to hold an objective perspective and presuming that this simple utterance is enough to produce it, we should aim for intellectual integrity. This demands thoughtfulness, humility and an awareness of our personal sensitivities and cultural embeddings as well as the lens through which we observe these issues – or, for that matter,

any other issue we direct our attention to. Kuhn<sup>2</sup> has shed light on the cultural premise of scientific paradigms in his classic work 'The Structure of Scientific Revolutions'. Do we presume now that we have successfully detached ourselves from culturally-induced perspectives? How do we reflect our methods for selecting variables or indicators for a study? On the basis of which criteria do we consider them relevant, particularly when examining the well-being of individuals with respect to their sex/gender identity, sex/gender-based dynamics and sexuality? Have we directed our attention to the premises a major part of our research on outer and inner gender and sexuality builds on? On what basis do we distinguish between healthy and pathological, presence and lack, formation and deformation, variance and condition, normal and abnormal, order and disorder or disruption, correctness and errors, natural and unnatural? For which reason do we show a strong preference for some words and a neglect of others? And where in the end lies the origin of the problem or the suffering? Does it lie in the embodiment of an unusual sex/gender or sexual variation or in the shame imposed on us by people who react negatively to this variation?

If we cast an epistemological look on the way trans and intersex issues are often regarded, we can identify a conjunction of a developmental and a complementarian understanding of sex and gender. For instance, intersex persons are presented by medical science as men and women whose sex development is incomplete, while trans persons supposedly suffer from a mental illness or a psychic disorder. In other words: They deviate from a course which should have taken them to medically defined male and female bodies, respectively associated normative masculinity and femininity, as well as heterosexuality. An idealized course that gives little or no room to variability. The general formula: 'The meaning of life is procreation' exemplifies this developmental and complementarian view by which living organisms develop according to a program. It is however essential that we be aware of the teleological character of this line of thought as well as the fact that we have unwittingly substituted God with Nature as a guiding figure and organizational power of life. If we regard things from the perspective of purpose, goal or program we unquestioningly assume the underlying existence of a sentient being that forges plans or points out directions.

Yet we do not possess the instruments to prove the existence of such a being, which only seems to be possible by a leap of faith. Maybe it is easier to comprehend the critique of the theological way of thinking if we apply it to an area which is for the most part devoid of the emotional attachment present here, such as astrophysics. Astrophysicists do not explain gravity with the statement that

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2 | Kuhn, T. (2012): *The Structure of Scientific Revolutions*, Chicago: The University of Chicago Press, 50th Anniversary Edition.

its purpose is to maintain order among celestial bodies. Instead they describe its mechanics and effects. If we transfer this insight to our subject matter then it is more appropriate to say that there exists a process among living organisms that can produce new generations. The consequence of this is that assumptions about incompleteness and defectiveness are defeated and require us to reflect on this with other terms.

This leads to the observation about the traditional differentiation between nature and nurture, between what biology exerts its influence on and what is formed and organized by society. This differentiation is often interwoven with the theological observation of nature in which a living organism not merely establishes a program but also what is desirable in terms of the organization of its life or even social life. Yet as Stephen Jay Gould pointed out appropriately: “[...] everything we do lies within our biological potential” (1977, p. 277), meaning that vastly different cultural behavior and social systems all originate from our collective biological fabric, which allows much variability. He also shed light on the values judgment scientists often make when they interpret physical traits and biology, calling for an ‘acknowledgment of diversity’.<sup>3</sup>

I am not saying here that everything that a human being can imagine and produce is desirable and good for the ecosystem or for our individual and social life. Nevertheless everyone is called upon to be aware of the lens through which they observe issues of sex, gender and sexuality. This applies particularly to those who as researchers are attributed authoritativeness, since our perspectives carry more weight in the life and fate of people in a marginalized position. The desire to act for the ‘own good’ of a given population has in the course of time repeatedly led to injustices and traumas, as one can see with peoples divided by race, indigenous tribes and women, and is more than anything an expression of the social ideals that we cling to or have internalized, even if from time to time we dare to criticize them gently. As a result we think it important to carefully listen to the voice of people who experience precisely these issues that concern us, and to be prepared to see some of our most entrenched certainties shattered. It is through contact with diverging thoughts and ideas that our own thoughts grow and acquire refinement.

A special feature of the conference ‘Gender Normativity and its Effects on Childhood and Adolescence’ was that it brought together people with very diverse backgrounds and horizons. Trans persons, intersex persons and cisgender people<sup>4</sup> attended, as well as parents, delivery nurses, educators, teachers and institutional experts from various areas. Biology, psychology, social work and sci-

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**3** | Stephen Jay Gould (1977): *Ever Since Darwin*. New York: W. W. Norton.

**4** | See the contribution by Natacha Kennedy in this volume.

entific research came together here, since all of them are concerned with gender. This conference expertly emphasized the centrality of these issues in our lives, since binary and complementarian representations of gender dominate the lives of each and everyone of us, including those of trans-, intersex and cisgender persons.

A cultural premise in the conference program which will hopefully contribute to further discussion was revealed in the attention given to the subject of the well-being of gender-nonconforming children, as well as in the discussion of the issue of bad treatment by surrounding persons or the systemic environment which the so-called sex and/or gender-nonconforming child is a part of. That is because intellectual discipline should not do away with a commitment to the well-being of these children and the fulfillment of their human rights.

Criticism directed against biological determinism cannot ignore the importance of the fact that we need to initiate the debate there where it should most logically take place, i.e. in the discipline of biology. And examining already ongoing debates we see that there are various schools of thought competing with each other and producing further additional nuances (e.g. Bagemihl 1999; Fausto-Sterling 2000; Haraway 1991; Gould 1981; Vidal 2007; Voß 2010).<sup>5</sup> In addition crucial questions concerning the concrete relation between parents and child as well as the way in which their adult self-forms need to be discussed. Whoever deviates from the sex and/or gender norm does not live in a vacuum, as the experiences of parents who are often confronted with the vulnerability of their children show. The perspective broadens as we deal with the societal treatment of intersex and trans persons with particular attention to medicine and law. We can expect these two areas to be the focus of reflected action in the near future since many intersex groups from different countries worldwide have the common desire to protect children's human right to bodily integrity.<sup>6</sup> We are well-advised to deliberate these matters in the framework of scientific conferences and not remain within the closed circle of academia, but rather to act on an equal footing with intersex and trans persons, as well as enable the latter access to research and teaching. Lived-based perspectives and field research are crucial for forming a way of thinking that does not suffer from detachment. Moreover, people working in a specialized area but having never been seriously exposed to these issues and

**5** | Bagemihl, B. (1999): *Biological Exuberance. Animal Homosexuality and Natural Diversity*, New York: St. Martin's Press; Fausto-Sterling, A. (2000): *Sexing the Body: Gender Politics and the Construction of Sexuality*, New York: Basic Books; Gould, S. J. (1981): *The Mismeasure of Man*, New York: W. W. Norton & Company; Haraway, D. J. (1991): *Simians, Cyborgs, and Women*, New York: Routledge; Vidal, C. (2007): *Hommes, femmes: avons-nous le même cerveau ?* Paris: Le Pommier; Voß, H.-J. (2010): *Making Sex Revisited. Dekonstruktion des Geschlechts aus biologisch-medizinischer Perspektive*, Bielefeld: transcript.

**6** | Demands concluded by the second Intersex Forum ILGA. URL: [http://www.ilga-europe.org/home/news/for\\_media/media\\_releases/intersex\\_forum\\_2012\\_media\\_release](http://www.ilga-europe.org/home/news/for_media/media_releases/intersex_forum_2012_media_release) [06.09.2013].

realities benefit from experiences or reports from intersex and trans persons far more than from ethereal, disconnected theories built on assumptions. For this reason, field and lived based experience should always be a solid part of such conferences in order to complement theoretical approaches. In my view this balance is necessary for forming enlightened and practical knowledge.

There is a final concern I wish to express here: I want to emphasize how important the voices of intersex and trans persons are and that they be taken seriously. Regardless of their level of development there are elements in their and our life reality that only they/we can convey since only they/we experience their/our own life.

For the sake of intellectual transparency, I wish to emphasize that I am sharing these thoughts from the standpoint of an intersex researcher.

# Gender Identities and Human Rights<sup>1</sup>

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*Jean-Paul Lehnens*

## SUMMARY

In the light of continuing discrimination against trans people this article explores the question which human rights are violated when trans persons still see themselves subjected to extensive stigmatization. The contribution discusses the report of the United Nations High Commissioner for Human Rights as well as the Yogyakarta Principles and ends with eleven closing remarks that outline a way forward for taking necessary steps to reduce still prevalent discrimination against trans and intersex persons.

## SEX/GENDER AND HUMAN RIGHTS

The group of trans persons is not only in Luxembourg society a minority group that has been discriminated against and stigmatized for centuries. The prejudices are deeply entrenched: Trans persons are portrayed as irresolute and eccentric, as people without a desire to have children and thus as somebody who jeopardizes the future of our society. By going against all norms they threaten our young people. From this perspective, restrictions against trans persons are not seen as discrimination, since they are perceived to be sick, immoral and unbalanced. I here refer to the International Statistical Classification of Diseases and Related Health Problems of the World Health Organisation (WHO). In this context I would also like to mention the article “Transsexualisme et droit européen” which begins with the following definition: “Also known under the term of Harry Benjamin Syndrome, transsexualism defines itself as the unwavering conviction of belonging to the opposite sex, and as consequence the desire for

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<sup>1</sup> | Original version in French.

gender reassignment. Transsexualism is therefore seen as an illness and not as a perversion or a kind of homosexuality.”<sup>2</sup>

My contribution examines the issue primarily from a human rights perspective and deals with the question which human rights are violated with respect to trans persons.

Before turning to a number of relevant pieces of legislation I would like to refer to the report of the United Nations High Commissioner for Human Rights on discriminatory laws and practices and actions of violence against individuals based on their sexual orientation and gender identity (A/HRC/19/41).<sup>3</sup> This report has a chapter on violence, starting with killings, rapes and other acts of discriminatory violence. Navi Pillay here differentiates between two aspects of violence, physical and psychological, and clarifies: “These attacks constitute a form of gender-based violence, driven by a desire to punish those seen as defying gender norms.”<sup>4</sup> She also distinguishes between ‘street’ violence and organized abuse and emphasizes in this context the acts of violence coming from families and communities. She notes: “Lesbians and transgender women are at particular risk because of gender inequality and power relations within families and wider society.”<sup>5</sup> She emphasises the particularly barbaric character of these acts of violence, compared to others committed based on prejudices. In this context she also mentions the “so-called ‘honour’ killings” carried out against those seen by family or community members to have brought shame or dishonour on a family.<sup>6</sup> A further point of concern are the “denigration campaigns and violent threats against defenders of lesbian, gay, bisexual and transgender rights.”<sup>7</sup> The report also mentions the hate rhetoric’s used by political and community leaders to instigate hate and violence contributing to homophobia and harassment of individuals (see *ibid.* pp. 11-12). The chapter on torture and other forms of cruel, inhuman and degrading treatment deals primarily with the dehumanization of the victim and the High Commissioner also emphasized the aspect of violence in detention facilities. A particular feature here is “the susceptibility of male-to-female trans prisoners to physical and sexual abuse if placed within the general prison population.”<sup>8</sup>

Navi Pillay quotes incidents that have been reported by several special rapporteurs. Transsexual women for instance were deliberately beaten on their

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**2** | Dubos, O. (Ed.) (2007): *Sexe, sexualité et droits européens – Enjeux politiques et scientifiques des libertés individuelles*. Paris: Edition A. Pedone, p. 55.

**3** | United Nations (Ed.) (2011): *Discriminatory laws and practices and actions of violence against individuals based on their sexual orientation and gender identity*. URL: [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/A-HRC-19-41\\_en.pdf](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/A-HRC-19-41_en.pdf) [27.11.2013].

**4** | *Ibid.* p. 8.

**5** | *Ibid.*

**6** | *Ibid.* p. 9.

**7** | *Ibid.* p. 11.

**8** | *Ibid.* p. 12.



breasts and cheekbones in order to burst their implants and release the toxins into their bodies (see *ibid.* p. 12). Another example from El Salvador: Here a trans woman was placed in an all-male prison, in a cell together with gang members who raped her more than a hundred times, sometimes with the support of the prison guards (see *ibid.* p. 12).

The chapter about discrimination in health care points out that therapies for sex/gender reassignment – if they exist at all – are often prohibitively expensive and only rarely covered by state funding or insurance. Health care personnel are often poorly sensitized to the needs of trans persons and lack necessary professional training. In addition, intersexual children which already at birth display atypical sex/gender distinguishing features, are also often discriminated against, and unnecessary surgery is performed on them to fix their sex and gender. The latter often happens without the consent of these children or that of their parents and – one could add – often without any knowledge of which gender identity the child will develop in the future.

Regarding discrimination in education, “it is often in the primary school playground that boys deemed by others to be too effeminate or young girls seen as tomboys endure teasing and sometimes the first blows linked to their appearance and behaviour, perceived as failing to fit in with the heteronormative gender identity.”<sup>9</sup> This could also go on to include children whose gender identity deviates from the sex/gender assigned at birth, as well as those whose sex/gender identity does not deviate but who do not act according to the still prevailing stereotypes. Isolation and stigmatization engender depression and other health problems and contribute to absenteeism or even removal from school. In extreme cases they can even lead to suicide or suicide attempts.

The High Commissioner’s report also contains examples of discriminatory practices in the family and community. These discriminations show themselves in different ways, for instance by trans persons “being excluded from family homes, disinherited, prevented from going to school, sent to psychiatric institutions, forced to marry, forced to relinquish children,<sup>10</sup> punished for activist work and subjected to attacks on personal reputation.”<sup>11</sup> Here too, the risk is high for women due to the deeply rooted imbalance of the genders, and their self-determination is in particular jeopardy when it comes to crucial choices such as sexuality, reproduction and family life.

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**9** | *Ibid.* p. 19. See also International consultation on homophobic bullying and harassment in educational institutions, UNESCO concept note, July 2011. See Review of Homophobic Bullying in Educational Institutions. URL: <http://unesdoc.unesco.org/images/0021/002157/215708e.pdf> [02.12.2013].

**10** | “Relinquish” is here most certainly meant to imply abandoning existing children rather than renouncing the desire to have children. This is also corroborated by the experiences of some transgender persons with children. The French version of this passage is less ambiguous here: “obligées d’abandonner leurs enfants”, p. 23. URL: [http://www.ohchr.org/Documents/HR](http://www.ohchr.org/Documents/HR%2015.12.2013) [15.12.2013].

**11** | *Ibid.* p. 21.

After having outlined the various forms of discrimination listed in Navi Pillay's report, I will now examine how the violation of human rights of trans persons is addressed in a number of conventions and international norms.

First I would like to point to the issue paper<sup>12</sup> by Thomas Hammarberg, former Commissioner for Human Rights at the Council of Europe as well as to the document about 'good practices' that was drafted at Hammarberg's recommendation. It is also necessary to examine the recommendations of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity,<sup>13</sup> as well as the publications of the European Union Agency for Fundamental Rights in Vienna. The latter was involved in 2012 in a European LGBT study<sup>14</sup> which was published in 2013. In 2012, the European Commission also presented a document on this subject with the title "Trans and Intersex People. Discrimination on the Grounds of Sex, Gender Identity and Gender Expression".<sup>15</sup> In 2008 ILGA-Europe (The European Region of the International Lesbian and Gay Association) and TGEU (Transgender Europe) carried out the study "Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care"<sup>16</sup> on this subject. Finally the Belgian Institute for the Equality of Women and Men carried out in 2009 the transgender study "Being Transgender in Belgium. Mapping the Social and Legal Situation of Transgender People".<sup>17</sup>

All the texts mentioned above are based on the Yogyakarta Principles<sup>18</sup> which I will discuss in more detail below. The idea to set these up first came from a coalition of NGO's active in the area of human rights. The process of drafting the Yogyakarta Principles was accompanied, among others, by an international commission of jurists. In 2006 the idea was taken up in a speech by United Nations High Commissioner for Human Rights, Louise Arbour.

**12** | Hammarberg, T. (2009): Human Rights and Gender Identity. URL: <https://wcd.coe.int/ViewDoc.jsp?id=1476365> [02.12.2013].

**13** | Council of Europe (2010): Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity. URL: <https://wcd.coe.int/ViewDoc.jsp?id=1606669>. [02.12.2013].

**14** | Agency for Fundamental Rights (Ed.) (2013): European Union lesbian, gay, bisexual and transgender survey - Results at a glance. URL: [http://fra.europa.eu/sites/default/files/eu-lgbt-survey-results-at-a-glance\\_en.pdf](http://fra.europa.eu/sites/default/files/eu-lgbt-survey-results-at-a-glance_en.pdf) [18.03.2014].

**15** | Agius, S., Tobler, C. (2011): Trans and intersex people. Discrimination on the grounds of sex, gender identity and gender expression. Directorate-General for Justice of the European Commission (Ed.). URL: [http://ec.europa.eu/justice/discrimination/files/trans\\_and\\_intersex\\_people\\_web3\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/trans_and_intersex_people_web3_en.pdf) [18.03.2014].

**16** | Whittle, S., Turner, L., Combs, R., Rhodes, S. (2008): Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care. The European Region of the International Lesbian and Gay Association/Transgender Europe (ed.). URL: <http://www.pfc.org.uk/pdf/eurostudy.pdf> [18.03.2014].

**17** | Motmans, J. (2009): Être transgenre en Belgique. Un aperçu de la situation sociale et juridique des personnes transgenres. Institut pour l'égalité des femmes et des hommes (Ed.). URL: [http://igvm-iefh.belgium.be/fr/binaries/34%20-%20Transgender\\_FR\\_tcm337-81094.pdf](http://igvm-iefh.belgium.be/fr/binaries/34%20-%20Transgender_FR_tcm337-81094.pdf) [02.12.2013].

**18** | The Yogyakarta Principles (2007): The Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. URL: <http://www.yogyakartaprinciples.org/> [27.11.2013].

The Yogyakarta Principles fulfill three functions:

1. The mapping of human rights violations that people with different sexual orientation or gender identities have been subjected to.
2. The strict and clear application of international law with respect to these experiences.
3. The detailed description of the obligations of States to effectively guarantee human rights.

For 12 months, from 2006 to 2007, 29 experts from 25 countries from all regions of the world worked together on drawing up the principles. Communication was frequently effected via electronical means and a final meeting took place from 6 to 9 November 2006 at the University Gadjah Mada in Yogyakarta, Indonesia. The definitive text was adopted unanimously and published on 26 March 2007. The Yogyakarta Principles were translated into the six official languages of the United Nations.

The text comprises 29 principles, beginning with three principles on the universality of human rights and their application to all human beings without discrimination. The principles 4-11 list the various fundamental rights, including the right to life, the right to freedom from torture and cruel, inhuman or degrading treatment, the right to security of the person, the right to privacy, the right to a fair trial, and the right to freedom from arbitrary deprivation of liberty. The principles 12-18 emphasize the significance of nondiscrimination with respect to social, economic and cultural rights, including the right to adequate housing, the right to work, the right to social security and other social protection measures and the right to the highest attainable standard of health. The principles 19-21 are devoted to the freedom of opinion and expression, the principles 22-23 to asylum seekers and the principles 24-26 to the right to found a family, the right to participate in public life as well as the right to participate in cultural life. Principle 27 recognizes the right to promote human rights. And finally, the principles 28 and 29 confirm the importance of the accountability of those who violate these human rights.

All these principles naturally refer to those people who have a different sexual orientation or gender identity that do not conform to heteronormativity.

In an article on the Yogyakarta Principles, Michael O'Flaherty,<sup>19</sup> the rapporteur of the group of experts, gives a critical assessment of the principles and comments that some of them could have been more extensive. For instance Principle 18 on the role of the media does not deal with all media but only with those controlled by the state. Some principles are also phrased a little vaguely. For instance Principle 21B on the expression and the promotion of different opinions leaves

the question open whether and in how far a religious community can exclude someone on the grounds of their sexual orientation. Other aspects are completely disregarded: Domestic violence in homosexual households or access to medical care in developing countries remain unmentioned. Also aspects discussed during the drafting of the text, such as the right to marriage between homosexual partners, were not incorporated. The principles were phrased neutrally in terms of gender to avoid binary gender constructions. The result of this was however that there is now no explicit reference to the particular situation of women.

The dissemination of the text was extremely successful and the Yogyakarta Principles are mentioned in almost every document on gender identities from a human rights perspective. There were also official reactions from many countries, from the bodies of the United Nations, the Council of Europe and from civil society. One should however also mention that the reaction to the Principles was not always a positive one. The American 'Catholic Family and Human Rights Institute' for instance calls it a dangerous document. Other press releases of this organization are in the same vein and for instance condemn UN General Secretary Ban Ki-Moon's address in defense of LGBT rights before the Human Rights Council in Geneva.<sup>20</sup> Fortunately there are also Roman Catholic organizations that distance themselves from the fundamentalist views of this American institute.

At this point I would like to mention only briefly the definitions of transgender as specified by the European Commission. It differentiates between: transsexual, transgender, travestite/cross dressing people, androgynous, polygender as well as genderqueer, agender people, gender variant and intersex people. The Yogyakarta Principles, which many other texts refer to, work with the following definition:

"Sexual orientation is understood to refer to each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender. Gender identity is understood to refer to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms."<sup>21</sup>

**19** | O'Flaherty, M., Fisher, J. (2008): Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles. In: Human Rights Law Review 8:2. Oxford, pp. 207-248.

**20** | Gennarini, S. (2012): UN Secretary General Defies UN Member States on LGBT Rights and Reproductive Rights. URL: <http://c-fam.org/en/2012/7179-un-secretary-general-defies-un-member-states-on-lgbt-rights-and-reproductive-rights> [18.12.2013].

**21** | The Yogyakarta Principles (2007): The Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. URL: <http://www.yogyakartaprinciples.org/> [27.11.2013].

In the legislative resolution of the European Parliament of 12 September 2012 on the proposal for a directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime<sup>22</sup> the gender term is used, to my knowledge for the first time, in a legislative text of this significance.

It should be underlined that the various human rights declarations and conventions are universal – they naturally also apply to trans persons.

The first Yogyakarta Principle clearly emphasizes the right to the universal meaning of human rights and specifies: “All human beings are born free and equal in dignity and rights. Human beings of all sexual orientations and gender identities are entitled to the full enjoyment of all human rights.”<sup>23</sup>

In the various international agreements, gender identity, as opposed to sexual orientation, is rarely mentioned as a motive for discrimination. The United Nations Committee on Economic, Social and Cultural Rights confirms: “In addition, gender identity is recognized as among the prohibited grounds of discrimination; for example persons who are transgender, transsexual or intersex often face serious human rights violations, such as harassment in schools or in the work place.”<sup>24</sup>

It is clear then that the anti-discrimination provisions, in so far as they are not limiting, also apply to transgender. Besides the agreements we should also mention the court decisions, in particular those of the Human Rights Court in Strasbourg, that have repeatedly dealt with transgender issues, for instance regarding the recognition of changed sex/gender features on identity cards or the question whether a total sex/gender reassignment operation can be regarded as a medically necessary treatment and is therefore eligible to be covered by insurance. This raises the question whether a person needs to undergo surgery in order to be able to benefit from such measures.

This is also addressed in Principle 3, one of the key Yogyakarta Principles: The right to recognition before the law:

“Everyone has the right to recognition everywhere as a person before the law. Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Each person’s self-defined sexual orientation and gender identity is integral to their personality and is one

<sup>22</sup> | European Parliament (2012): Legislative resolution 12.09.2012. URL: <http://europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P7-TA-2012-0327+0+DOC+PDF+V0//EN> [27.11.2013].

<sup>23</sup> | The Yogyakarta Principles (2007): The Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. URL: <http://www.yogyakartaprinciples.org/> [27.11.2013].

<sup>24</sup> | United Nations (2009): Non-discrimination in Economic, Social and Cultural Rights. Committee on Economic, Social and Cultural Rights. URL: <http://www1.umn.edu7humanrts/gencomm/esgencom20.html> [10.12.2013].

of the most basic aspects of self-determination, dignity and freedom. No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilization or hormonal therapy as a requirement for legal recognition of their gender identity. No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person's gender identity. No one shall be subjected to pressure to conceal, suppress or deny their sexual orientation or gender identity."<sup>25</sup>

To mention all human rights aspects with relation to transgender would exceed the scope of this article, which is why I will in the following discuss only the most important aspects:

A first example is the right to correct the registered gender on the birth certificate as well as the identity document. The denial of this right constitutes a violation of Article 8 of the European Human Rights Convention which states: "Everyone has the right to respect for his private and family life, his home and his correspondence." This is about two formal procedures, changing the first name and changing the registered gender. Some countries oblige these persons to comply with certain requirements, including undergoing sex/gender reassignment surgery under medical supervision, or an irreversible sterilization. These are often very protracted and lengthy procedures which means that people's identity documents are withheld from them for a long time. In addition they have to submit themselves to physical and psychological examinations that do not always respect their integrity. This forms a serious infringement of people's privacy by the state. Forcing trans persons to undergo surgery in order to have their registered gender changed constitutes a human rights violation. The same applies in the case when mentally healthy people who want to have their registered gender and first name changed in the civil register are obliged to consult a psychiatrist or psychologist in order to be issued a certificate about a (presumed) scientifically not conclusively established disorder.<sup>26</sup> The familial consequences have also to be considered. There are countries that oblige a trans person who is married to a partner of the other sex/gender to get divorced for their new gender to be recognized.<sup>27</sup> The problem arises in those countries that do not or not yet recognize same-sex marriages. Needless to say that a forced divorce also affects the children of such a couple.

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**25** | The Yogyakarta Principles (2007): The Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. URL: <http://www.yogyakartaprinciples.org/> [27.11.2013].

**26** | Drescher, J., Cohen-Kettenis, P., Winter, S. (2012): Minding the body: Situating gender identity diagnoses in the ICD-11. In: International Review of Psychiatry, December 2012; 24(6), p. 573.

**27** | Hammarberg, T. (2009): Human Rights and Gender Identity, 3.6. URL: <https://wcd.coe.int/ViewDoc.jsp?id=1476365> [02.12.2013], p. 21.

Another important aspect is the access to health care. The normal medical classifications regard transsexuality as a mental disorder. Here we should mention in particular two international classification systems: The Diagnostic and Statistical Manual of Mental Disorders (DSM) and the International Classification of Diseases (ICD) of the World Health Organisation (WHO) where transsexuality is listed in Chapter V (mental and behavioural disorders) in the category F64.<sup>28</sup> The last mentioned classification is expected to be changed in 2015. Are we here dealing with a stigmatization of a person on the grounds of a mental disorder diagnosis or does the diagnosis facilitate access to health care? It is a continuing debate.<sup>29</sup>

Setting a minimum age for gender assignment surgery and hormonal therapies constitutes a further serious restriction that does not do justice to the physical wellbeing and the ability to work of adult transgender persons or the wellbeing of a transgender child (as laid down in the Convention of the Rights of the Child, Art. 3), since this often increases and prolongs suffering. It would exceed the scope of this contribution to enter into a more detailed discussion of discrimination relating to access to employment, harassment and insults, acts of violence already described earlier, hate rhetoric against the background of transphobia, i.e. the irrational fear of and/or hostility towards transgender persons or persons who go against traditional gender norms in other ways.<sup>30</sup>

Fear is a corollary of ignorance, which also points to the role of education.

This brings me to a number of concluding remarks:

1. In LGBT the 'T', which stands for transgender persons and their concerns, is often given little space or even forgotten; something similar applies regarding the concerns of intersex persons; the concept 'LGBT' has not yet established itself comprehensively.
2. An important notion for me is that of dignity. Transgender persons deserve, just as anyone should, that one takes an interest in them, speaks of them, not in the sense of misplaced commiseration, but so that they can safeguard their rights. That is the advantage of a legal perspective: You can go to court when your rights have been violated.
3. Besides the aspect of dignity there is the aspect of non-discrimination, of physical and mental integrity. But one has to transcend these notions and bring the concept of social justice into the equation.

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**28** | Ibid. p. 24.

**29** | Ibid. p. 25.

**30** | Ibid. p. 34.

4. The medicalization of the transgender issue has to be re-assessed as soon as possible and the classification of mental disorders revised.
5. The advantage of an approach from the human rights perspective is that the latter is based on a whole series of declarations and conventions that guarantee the rights of all persons and protect against discrimination. The disadvantage of such an approach is that these texts often do not reflect the specific concerns of LGBT, and most documents of the past 60 years do not explicitly mention aspects of sexuality, gender identity and also the intersex status. In the last years, however, efforts have increased to conduct empirical studies on the specific problems of LGBT that allow an approach from the perspective of social sciences and thus enable to break open the rigid frame of international norms. Such a study is the one conducted in 2012 by the Agency for Fundamental Rights (FRA), which primarily focused on the discrimination of gays and lesbians.<sup>31</sup> The peculiarities of bisexuals and transgender remained for the most part unconsidered, unless they overlapped with the concerns of gay or lesbian persons. This is why many trans persons did not care to participate in this study. So we can say that the personal situations of transgender people were not or not sufficiently portrayed. The data collected in the study are being evaluated separately since November 2013. In general one should note, however, that emotions and feelings by themselves do nothing to remedy the problems of this world, even though they might have an important collateral effect.
6. A further concern is that research should not limit itself to European studies. We should examine whether the LGBT categories, which could be extended by adding an I for intersex or a Q for queer, are not too eurocentrist or dominated by a Western perspective.
7. Guaranteeing LGBT rights occurs mostly on an international or European level and less so on a national one. The decisions of the Strasbourg court do not always go into the same direction, or as Ioanna Mincheva notes in her master thesis, “whose case-law is ever so often weakened by inconsistency.”<sup>32</sup>
8. The LGBT categories are social constructs and could therefore be questioned.
9. With regard to the rather long time it is taking to put the Yogyakarta Principles into practice one should bear in mind how long it took to establish the dispositions for the rights of women in society. Patience is required here. A top-down approach is probably faster, but it does not guarantee the accep-

**31** | Holzacker, R. (2011): *Gay Rights are Human Rights. The Framing of New Interpretations of International Human Rights Norms*, p. 3. URL: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1902165](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1902165) [02.12.2013].

**32** | Mincheva, I. (2012): *Beyond equality and non-discrimination: Escaping narrow human rights framings in the context of sexual orientation and gender identity*, p.33. URL: <http://www.eiuc.org/research/publications/ema-awarded-theses.html> [02.12.2013].



tance among the wider population which is still very skeptical in particular towards the T in LGBT.

10. I also wish to emphasize the role of Article 14 of the European Convention on Human Rights. The article mentions gender as well as any other status. Although the term gender identity may be included in various directives it will be difficult to incorporate it in the Charter of Fundamental Rights itself if it is the only proposed change to an article.
11. One can see the LGBT movement as a new social movement with demands for social justice, for participatory parity which breaks through identity politics – one should also observe the parallel to the women's movement (Mincheva 2012: 64).

Let us take a brief look into the past:<sup>33</sup> In many countries the LGBT movement (initially LG) embraced the concept of identity. Activists saw their actions as part of the liberation movements of the 60s of the 20th century. Later the movement went beyond the concept of personal identity and took the demands to another level: The focus was now on the notion of protection of a public identity by the state, bringing the demands onto the level of civil law. Today it is necessary to move beyond the limited frame of equal treatment and non-discrimination aspects that the LGBT demands are still far too frequently based on. Unfortunately, it is often vague or general recommendations that win through instead of reformulating or deconstructing them to promote a better understanding. In addition to the emotional and personal claims to equity and fairness that invoke an inner sense of right and wrong, academic research should be encouraged in the field of social theory. We should, as Mincheva emphasizes, “move beyond looking at the LGBT movement through the prism of victimisation and start viewing it instead as a legitimate branch of new social movements, with a unique complexity and implications for the social and political environment.”<sup>34</sup>

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**33** | Holzhaacker, R. (2011): Gay Rights are Human Rights. The Framing of New Interpretations of International Human Rights Norms, S. 3. URL: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1902165](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1902165) [02.12.2013].

**34** | Mincheva, I. (2012): Beyond equality and non-discrimination: Escaping narrow human rights framings in the context of sexual orientation and gender identity, p. 67. URL: <http://www.eiuc.org/research/publications/ema-awarded-theses.html> [02.12.2013].



# The Gender Issue, a Question of Non-Discrimination<sup>1</sup>

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*Charles Goerens*

## SUMMARY

This contribution written from the perspective of a Luxembourg politician with considerable national and international experience explores the question of what is needed to accept and respect being different. The contribution emphasizes that – as the history of the 20th century pointedly shows – in democratic nations legal provisions alone, despite their undisputed necessity, are not sufficient to prevent discrimination, but that a humanistically constituted public spirit is needed which objects and revolts when human beings continue to be subjected to discrimination on the grounds of supposed deviations from the norm.

## THE SEX/GENDER ISSUE AND NON-DISCRIMINATION

First of all I would like to remark that I feel somewhat insecure among this academic community. Due to my farming background I may not be able to muster the necessary sensitivity in dealing with the subject of your colloquium. For this reason I would instead prefer to endorse here what has already been said before. As a non-member of your scientific community, but as a member of the European parliament, I would like to share with you my convictions regarding this subject.

I thought I would be able to do this with a little understanding and a little empathy. Moreover, I have also accustomed myself to not attaching excessive value to polls. When, for instance, a survey indicates that only a small minority of five percent of the population regard themselves as openly racist, this is for me no reason not to be worried. In Luxembourg five percent equal

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**1** | Original version in French.

25 000 people. Very much in contrast to a purely quantitatively-oriented statistical evaluation, this for me means that we have 25 000 reasons to be worried.

I can image this is not much different regarding the trans issue. There is no lack of paragraphs and legislation against discrimination on the grounds of race or invalidity, or, as in this case, against discrimination on the grounds of sex and gender. What we need is an acceptance of otherness and the respect towards others. One of the most significant texts in this regard are the recommendations of the Council of Europe of 2010 already mentioned by Jean-Paul Lehnert.<sup>2</sup> Let us also not forget the Charter of Fundamental Rights of the European Union and the EU treaty which secure the principle of non-discrimination. This raises the question with which tools we can engage ourselves in the most efficient way for an acceptance of otherness and against discrimination. In my view there are two different possibilities: First of all, discrimination has to be fought with legal steps, i.e. on the basis of pertinent legislation that, if necessary, has to provide for punitive measures. In this sense both the work of the Council of Europe as well as that of the European Union is contributing in creating a very valuable judicial area for people, a judicial area we can now enjoy.

Even if non-discrimination today represents one of the most significant achievements of the European Union we should not forget that in some countries that have meanwhile joined the EU homosexuality was considered an indictable offence until the end of the 1990s. This absurdity could even go as far as combatting homosexuality with medication. Since then we have made considerable progress in the respect of fundamental rights. I wish to emphasize that without the particular influence of the Copenhagen criteria that make the principle of non-discrimination a condition for EU membership this would not have been possible. It has to be noted here that some of the fundamental rights laid down in the European Human Rights Convention had been a dead letter before their inclusion in the Copenhagen criteria. A similar case is the abolition of the death sentence in Turkey. In the light of the currently existing legislation and practices persons who violate the principle of non-discrimination cannot plead attenuating circumstances, even though there continues to be room for improvement, as Professor Lehnert has so eloquently shown. Nevertheless we could be tempted to assume that everything seems to be in perfect order.

But are we really immune against regressions in the area of non-discrimination? In my view we must not let down our shields. The applicable law only remains in force until it is changed. Far from wishing to trivialize this idea, the reality of the 20th century, in particular the 1930s, reminds us over and over

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**2** | See the article from Jean-Paul Lehnert in this publication.

again that the most serious attacks against civil liberties can be launched from the legislative organs themselves. For this reason attitudes that counteract the spirit and the contents of applicable legislative provisions have to be dealt with from the outset. The dehumanization process Europe's authoritarian regimes gradually led their citizens into should stir us to heightened vigilance. Numerous voices remind us that this dehumanization, characteristic for the 1930s and 1940s, did not come about overnight, but rather through an insidious process of successive curtailing of civil liberties und fundamental rights. As we know, not only Jews were murdered in Auschwitz but also thousands of individuals who had become victims of discrimination on the grounds of their sex and gender.

With my second point I would like to emphatically remind ourselves that it is not sufficient to take a formal legalistic stance in these matters. If such a stance is understood as acting in accordance with the law then the question arises whether the law actually carries values of tolerance and respect towards minorities. In a society where the number of legal regulations, regimentations, rules and guidelines is on a continuous increase the conformity to the legal regime is less significant than its actual contents. This means that a society based on these fundamental values such as ours should be able to always stand up in protest and revolt whenever these legal foundations are called into question.

Civil disobedience then means opposing such laws if they go against ethical principles. The crimes committed against humanity in the recent past have underscored the vulnerability of our societies. The crucial question here is how normal people behave in unusual situations. When drawing lessons from the history of the 20th century we also have to discuss how it was possible that a climate of tolerance and respect of human dignity came to be destroyed. In other words: "We have to nip these sort of things in the bud". Seen this way, a vigilant civil society is more essential for the protection of our fundamental rights than opportunistic protest movements.

Europe possesses guidelines for the respect of fundamental rights as well as a strong will to use these as a fundamental principle for action. The European system, far from perfect, is nevertheless making progress. Let us therefore ask by which means already accomplished achievements can be secured permanently.

There are many, such as the French historian Georges Bensoussan, who assume that the major crimes against humanity and in particular the Shoah were favoured by several interwoven factors; factors that also strongly mark our period. A totally organized state, a collective conformism reinforced through mass media, the fragmentation of responsibilities and assignment of disjointed task ar-

eas to individuals who were unaware of the impact of their limited perspective on the rest of society, have led to the most horrific crimes in the history of mankind. The continuing technological advances of the 21st century and the special role of social networks cannot provide absolute protection of our rights and liberties. There is no alternative to a critical public spirit. A society that has committed itself in its entirety to humanism and is capable of rising in protest when a group of citizens is stigmatized remains the best bastion against discrimination.

## **CHAPTER 2: CATEGORIES**





# The Concept of Human Gender: Its Epistemological and Ethical Impact<sup>1</sup>

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*Michael Groneberg*

## SUMMARY

This contribution presents a terminology intended to permit an adequate description of the realities of inter and trans persons. The epistemological appropriateness creates, at the same time, a basis for acquiring a fitting ethical attitude towards these persons. To this end, it is argued to be necessary to make a clear distinction between the concepts of 'sexuality' and of 'gender'<sup>2</sup> and to acknowledge a third, phenomenal dimension of gender besides the physical and social one. It is argued that a person's experienced gender should be accepted as their gender. Since the experienced gender is often understood as gender identity, which also induces criticism, the contribution concludes by presenting arguments in favor of conceiving the experienced or psychological dimension of gender as an identity.

## INTRODUCTION

Philosophy does not only, but first of all deal with concepts. Words are important, particularly in everyday and public communication, but concepts are equally important in scientific and ethical respects. Different words or expressions<sup>3</sup> such as hermaphrodite, intersexual or person with a sex development variation evoke different images and connotations for the same subject area and produce

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**1** | Original version in German.

**2** | In this contribution, the term 'gender' also implies the physical dimension usually named 'sex' in English, as will be argued for. On the level of words, any derivative of 'sex' will be avoided when talking of the domain of gender, in order to clearly distinguish the two subject matters. The author thus proposes a terminological strategy that differs from that of the editors. His perspective is inspired by historical conceptual research showing that since Antiquity, matters of gender (being female, male or other) have always been reduced to matters of sexuality (intercourse, fertility, procreation), thus obliterating a proper investigation of the problems of inter or trans persons.

**3** | An expression is a word or combination of several words.

different value judgments. Between the words and the objects signified by them, the concept reflects our understanding of this object.<sup>4</sup> Since a term does not have a meaning but in connection with others, we denote by ‘terminology’ the framework of terms (in the sense of concepts), that structures a subject area.

When the terminology is not appropriate to a subject matter, the latter is understood incorrectly or not at all. As a result, we cannot do justice to the objects or we even violate them by attempting to align them to our terminology. The following analysis of concepts is therefore not only of epistemological but also of ethical relevance.<sup>5</sup> It can contribute to avoiding violence – including symbolic violence – rooted in ignorance, and to reducing the suffering of persons who are subjected to inappropriate terminologies.

A glance at the numerous publications on the subject of gender reveals the following issue: Many texts in a wide range of disciplines use the triad sex/gender/sexuality (or in German: körperliches Geschlecht/soziales Geschlecht/Sexualität) for describing a person’s sexual and/or gender constitution. This tripartition is confusing and does not correspond to any scientifically grounded and ethically justifiable terminology. The conceptualization presented now aims at satisfying these requirements.

As a first step it is necessary to make a clear analytical distinction between the concept of ‘sexuality’ and that of ‘gender’ (social, phenomenal and physical, i.e. including the so-called ‘sex’). It is important to avoid mixing them, as for instance Hirschfeld (1914: ch. 19) has done with his concept of ‘intermediate stages of sexuality’ under which he subsumed homosexuals, transvestites and hermaphrodites, as if they manifested comparable phenomena with a common etiology.

Following this line of thought, we are confronted with the question what could serve as umbrella term for ‘gender’ and ‘sexuality’. Since the disciplines that deal with sexuality, such as medicine and sexual studies, also address issues of gender, such as inter or trans gender topics, under the heading of sexuality, it seems appropriate to take ‘sexuality’ as a broadly conceived notion that also includes issues of gender.

On the other hand, gender studies not only analyze gender, social and physical, but also sexuality in a narrow sense, such that in this domain, ‘gender’ seems to be the general term.<sup>6</sup>

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<sup>4</sup> | Term and concept are roughly used as synonyms in this text, although term is more ambiguous in that it can mean both word and concept.

<sup>5</sup> | The analysis was already carried out in Groneberg 2003, 2008, 2012a, 2012b, 2014 and 2015, however without defending the identity aspect of the experienced gender.

<sup>6</sup> | See Christel Baites-Löhr’s contribution in this publication: Always gender – always different.

Even if the umbrella term varies relative to disciplines and discourses, it contains, in each case, the reference to both domains, that of gender and that of sexuality. The relationship of terms is thus the following:

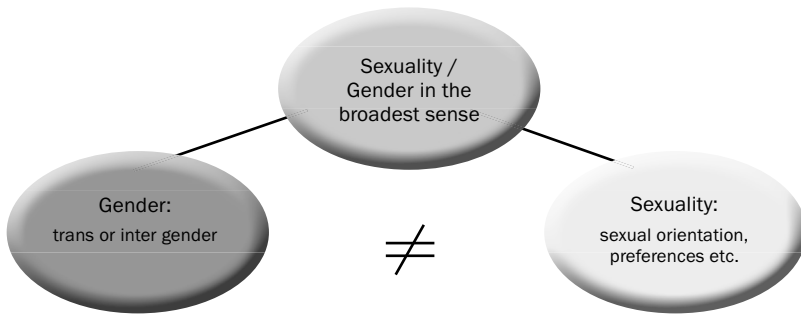


Figure 1: *Differentiation of Gender and Sexuality.*

What is at stake in the following analysis is not the umbrella term but the separation of issues of gender in the narrow sense from those of sexuality in the narrow sense. Hence, sexuality and gender are always understood in their narrow sense unless specified otherwise.

Since this contribution is about the conceptualization of gender, the subject of sexuality will only be briefly mentioned now in order to demarcate the subject matter. In its area are discussed questions of sexual orientation, sexual identities, sexual preferences as well as the social organization, cultural norming and historical development of what we today refer to as sexual intercourse or sex, conceived in medieval times as carnal desire and in Greek and Roman Antiquity as matters of Aphrodite or Venus.<sup>7</sup>

In a second step we need to complement the conceptualization of gender, within which the differentiation of physical and social gender ('sex' and 'gender') is widely acknowledged, by the third element of the experienced, phenomenal<sup>8</sup> or psychological.

<sup>7</sup> | See Foucault 1984.

<sup>8</sup> | The English language renders difficult the necessary distinction between what there is (entities, phenomena) and the theories about it (ontology, phenomenology, psychology etc.). The term 'phenomenal' refers to self-conscious experience, that is, to a person's inner life or psyche. In German and French 'psychisch' or 'psychique' would be adequate adjectives, but the English 'psychic' does not work, for obvious reasons, neither does 'mental'. 'Psychological', on the other hand, refers to the discipline of psychology, as 'phenomenological' refers to the philosophical discipline of phenomenology, which tries to verbalize and conceptualize the experiences of the life-world. In any case, life-world experience (the phenomenal) is not to be reduced to what scientific or philosophical disciplines say concerning it.

Gender is thus differentiated as follows:

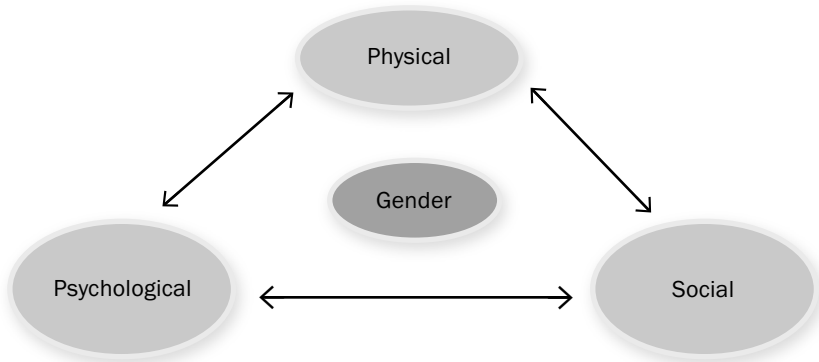


Figure 2: Dimensions of Gender: physical or bodily gender / 'sex'; psychological - experienced or phenomenal gender identity<sup>9</sup>; social gender.<sup>10</sup>

Every person occupies, at a given moment, a particular place in each of the three dimensions that are, in turn, each differently structured. The physical (synonyms: corporal, somatic) dimension assembles a series of somatic features connoted with gender: gonads, chromosomes, internal and external sexual organs as well as physique/build. The physical so-called sex, also misleadingly referred to as biological sex, is in itself multidimensional. By contrast, the social dimension is, in our 'Western' culture, one-dimensional and marked by the male/female dichotomy, traditionally ruled by a logic of either/or excluding any in-between. Third genders are known in many cultures, however (Herdt 1996). Current amendments to existing laws that provide for a third gender entry are also moving away from the exclusive dichotomy.<sup>11</sup> Finally, the third phenomenal dimension, i.e. the self-experience of the individual, reflects the social dichotomy with its traditional expectations to be either male or female on the one hand, and the development of the own physical gender characteristics on the other, without being determined by it in every person.

**9** | 'Gender identity' is a term used in legal texts, in psychology and phenomenology, i.e. it is a juridical, psychological and phenomenological term conceived to express a part of personal experience (not to be confused with the sociological term denoting social gender identity).

**10** | This is formulated on a disciplinary background that presumes as generally recognized the distinction of physical and social gender, which is at least the case in social sciences and Gender Studies, where the psychological dimension needs to be respected in its own right in order to obtain the proposed triangulation. Psychology, medicine and law, on the other hand, recognize the psychological gender identity as a self-evident factor, such that only the distinction of social and physical gender need be recognized, as well as the descriptive independence of the psychological from the physical and social.

**11** | See the position of the German Ethics Council 2012.

Inter persons are confronted with physical developments with contradictory gender coding (the social aspect). Their self-experience confronts us with the question of the possible self-positioning (the phenomenal aspect). Studies show that the social dichotomy is not always reproduced one to one by the subject's self-experience, but can be broken up into a bipolar continuum.<sup>12</sup> But masculinity and femininity can also be represented on two independent coordinate axes. Such independence requires to no longer see masculinity and femininity as opposite ends of a spectrum. Moving a step further, the question arises whether, corresponding to the physical multidimensionality, a multidimensional self-positioning is also to be considered as a possibility (living oneself as a puzzle). In this regard we should expect more insights from future empirical longitudinal research on inter and trans gender issues.

## THE DISTINCTION OF GENDER AND SEXUALITY

The situation of inter and trans persons can be understood independently of a reference to issues of their sexuality. Their constitution is not defined as sexual, but as gender-based. The conceptual separation of gender and sexuality has consequences for the choice of words: Instead of transsexuality the term 'trans' or 'transgender' is increasingly used, and instead of intersexuality the term 'intergender' should be used, if we follow this line of thought.<sup>13</sup>

The ambiguity of the English and French words 'sex' and 'le sexe', which denote the physical sexual apparatus as part of the physical gender on the one hand, and intercourse on the other (in German: das Geschlecht and Geschlechtsverkehr), has contributed to reducing one area to the other: the physical gender difference has been related to sex in the sense of sexual practices, the topic woman has – in a male heterosexual perspective – been reduced to the topic intercourse, and sexuality has been narrowed down in a phallogentric way. These ambiguities and reductions tend to reinforce the still common confusions of trans persons, so-called transsexuals, with homosexuals, and of inter persons, so-called intersexuals, with bisexual persons. Moreover, the distinction of gender and sexuality allows us to formulate empirical relations between the two areas that have been established since the last century in science and philosophy: gender differences between man and woman do not only concern the area of sexuality;<sup>14</sup>

<sup>12</sup> | See Quindeau 2012; Giordano 2008.

<sup>13</sup> | Self-help groups use the term *Zwischengeschlecht* (see [www.zwischengeschlecht.org](http://www.zwischengeschlecht.org)) in German speaking contexts. Using the term *Intergeschlecht* has the advantage of corresponding to the English and French terms *intergender* and *intergenre*. Both terms are currently used as synonyms.

<sup>14</sup> | See in particular de Beauvoir who developed this aspect for the first time in phenomenology in her "Le deuxième sexe" (1949).

the gender of an individual does not determine their sexual orientation, identity or preference;<sup>15</sup> gender assignment surgery in children can have disastrous consequences for their sexual sensibility later in life.<sup>16</sup> The desire of trans persons for a reassignment of their somato-social gender is not motivated by their sexuality but rather by their need to make their somato-social gender existence correspond to their self-experience.<sup>17</sup>

Last not least, it is important to distinguish gender and sexuality, because the conceptual and imaginary connection of trans- and inter gender with collective erotic phantasms is deeply rooted in the traditional discourses and practices of our culture and has obscured the understanding of their real situation. The terms ‘androgynous’ and ‘hermaphrodite’ have since classical Greek antiquity denoted real and fictional bi-gendered persons who symbolized the sexual and/or marital union of man and woman. The remnants of this connotation of the hermaphrodite with sexual matters have impeded scientific understanding of the life realities of trans and inter persons well into the 20th century.<sup>18</sup>

### **The three components of sex/gender**

If sexuality as a separate domain is secluded from the conceptual triad ‘sex/gender/sexuality’, a theory of the genderedness of human beings (in the narrow sense) is left with the notions of physical and social gender. As is evident in the cases of trans and inter persons, however, a person’s gender constitution is not fully described by referring only to the corporeal and the social.<sup>19</sup> For in that case it is neglected how persons establish themselves, i.e. how they experience and define themselves: as a girl or as a boy or as something else. The gender that is assigned after birth and then trained and acted out, can deviate from how the child experiences itself – regardless of whether social and physical gender are concordant or not.

### **The psychological gender**

The experienced subjective gender has to be regarded as the defining criterion of a person’s gender.<sup>20</sup> The last century’s failed attempts at an alternative definition have shown that a person’s gender is not defined by social gender identity nor by physical features such as chromosomes, gonads or build, nor by their

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**15** | As assumed by Ulrichs (1864) (see Groneberg 2008); Butler 1993, ch.8, pp.181 ff.

**16** | See German Ethics Council, NEK statement, Richter-Appelt 2008, Schweizer/Richter-Appelt 2012.

**17** | See the contributions in this volume with references to new literature; Groneberg 2003, 2008.

**18** | See Groneberg 2008a, 2009, 2014, 2015.

**19** | Details and literature in Groneberg 2003 und 2008.

**20** | This does not depend on the term used by the persons to name what we here call gender; if they refuse the term gender and talk of sex, then their experienced ‘sex’ is what should be accepted as defining their gender.

combination.<sup>21</sup> The fact that an individual's gender cannot be defined somato-socially (through physical gender features and social gender) does not exclude the possibility that the psychological gender interacts with somato-social components or is even caused or determined by them in certain persons. But what, in the final analysis, has to be acknowledged as a person's gender is the one experienced by that person – and this is an entity within her psyche –, formed in the first years of life on the basis of one's individual corporeality and of one's interactions.<sup>22</sup> As a consequence, when human beings are born they do not yet have their gender.<sup>23</sup>

The acknowledgement of this third element, the experienced gender, is epistemologically necessary in order to adequately describe the lived gender realities of trans and inter persons in all their complexity. It also lays the foundation for an appropriate ethical attitude that leads to respecting individuals' genderedness instead of violating them or denying them help and assistance.

Acknowledging experience as defining a person's gender (or so-called sex) implies a revision of our understanding of the gender of every human being: Being a woman, a man or else is not to be understood as a physiological given nor as a social fact, nor as a combination of both, but ultimately as a question of subjective experience influenced by corporeality and sociality. However, the acknowledgement of the psychological dimension, analytically an obvious step to take, continues to be the object of a struggle over definitional sovereignty, i.e. over who has the power to define if someone is to be regarded as female or male or other. This power, which in modern times had been delegated to medicine (see Foucault 1978), was questioned in the course of the 20th century by the social sciences and feminism by invoking social gender against the biological ('sex'). All positions, however, have a hard time transferring the power of definition to the individuals themselves. As current legal discourses illustrate, the experienced gender can be regarded as the place where the protection of the individual against somato-social ordering tendencies is anchored.<sup>24</sup> Only when sexuality and gender are decoupled conceptually and the individual's self-experience is acknowledged as an indispensable descriptive and defining factor, can inter and trans genderedness be described and understood adequately. This is the necessary condition for resolving the issues of violence related to the previously used terminology.

**21** | Details in Klöppel 2002; Groneberg 2008.

**22** | Formulated for the first time in this way in Groneberg 2003.

**23** | In how far the future gender identity is already prenatally inherent or predetermined at birth is a question that the empirical sciences need to answer.

**24** | For details see the end of this contribution: Legal and ethical anchor point.

## Inter persons ('Intersex')

A plurality of physical features, primarily chromosomes, gonads, internal and external genitalia and build, but also voice and movements are gender coded, i.e. coded as male or female. Intergender is defined purely on this physical level as non-concordance, discordance or incongruence of the primary sexual traits. This means that an inter person is living with physical gender features of a contrary gender coding, for instance with female breasts and internally located testicles. The discordance does not need to be manifest for the individuals or their surroundings. If it is or comes to be this way it can result in problems for gender identity on a psychological or a social level or both – but these consequences do not define their constitution (Groneberg 2008; 2009; 2012a; 2012b).

## Trans persons

Trans can also be defined as non-congruence. Often it is understood as one between the subjectively experienced and the physical gender, as a conflict between the phenomenal and the physical dimension. Trans people can indeed suffer from this, but the cause of their suffering can just as well lie in the discordance between their psychological and their assigned social gender identity.<sup>25</sup> We could also speak of a conflict of these two identities, suggested by the alternative term of 'transidentity'. In any case, the constitution of transgender or transidentical persons cannot be characterized, like that of inter persons, within only one dimension. It is rather an incongruence between the psyche on the one hand and the body<sup>26</sup> and/or sociality on the other.<sup>27</sup> As the opposite pole to transidentity, the term 'cisidentity' (Sigusch 1991) refers to people whose experienced gender conforms to their somato-social one (without preceding reassignment). A further term is 'person with AGIO' – the acronym stands for 'atypical gender identity organization' (German: Atypische Geschlechts-Identitäts-Organisation), coined by Giordano in 2008. The conceptual pair discordant-concordant has an advantage over atypical-typical in not referring to normality and in naming, without pathologizing, the specific cause of the suffering or the pressure to act. The term 'transman' and 'transwoman' describe the two most frequent forms of living trans. They are to be understood as abbreviations for a man or a woman with

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**25** | This definition also covers the so-called forced transsexuality, if inter children and persons who have been assigned medically or educationally to one gender (i.e. who are equipped with either a male or a female social identity), cannot identify with it.

**26** | 'Body' can be rendered in German by Körper or Leib, terms that are generally, as in the original German version of this contribution, used synonymously. The same applies for the nouns Psyche and Seele ('psyche' and 'soul') and the adjectives and adverbs derived from them, psychisch and seelisch ('psychological'). The latter denote (self)consciousness, (self)awareness, the 'internal', experience, qualia and so on and do not imply any theological or metaphysical claims like immortality. The soul is the object domain of psychology, psychoanalysis or psychiatry and of the philosophical domain of phenomenology.

**27** | Giordano (2008:269) assumes that the suffering can already begin at the age of four or five.



a trans constitution. A transwoman experiences a female gender identity that does not correspond to her somato-social gender at first, but that does so after a desired transition. By contrast, the abbreviations MTF (male to female) and FTM (female to male) do not refer to the experienced but to the 'objectively' observed somato-social dimension. Hence, a post-OP transwoman is called MTF. These expressions are appropriate for describing the purely external gender transition in absence of knowledge about the person's experienced gender, for instance if it is imposed. Finally, there is also talk of a social gender identity. If we use this term, we have to keep in mind, however, that 'social identity' is a different term than 'psychological identity'. Both concepts have in common to denote stability: From a certain age onwards, most people are either identifiable as male or female for the rest of their lives; in that sense they have a stable social gender identity – even if the latter does not correspond to the individual's experienced gender, the one assigned by the outside is (at least initially) in general acted out.

The physical level is the only one among the three where we cannot speak of an identity, but only of a series of gender features that are more or less concordant among each other and with the social and psychological gender identities.

Trans is often misunderstood: Trans persons have not necessarily changed their physical sex, i.e. have acquired via surgery and hormones the physical features of the opposite sex. Trans persons should not be reduced to a performed physical gender reassignment. The term 'trans', with respect to a person, says that the psychological gender and the somato-social gender of that person can only correspond after a transition of the latter. Before this transition is performed, the trans person may possibly experience agonizing conflicts that may even lead to suicidal tendencies. The term sex change is also frequently used. It is questionable, since it presumes that there are two sexes and that a change is made, or planned to be made, from one to the other, implying that the target sex constitutes a point of attraction. However, other identities (e.g. androgynous combinations of male and female) are not mere theoretical possibilities, but observable, and not only in cases of inter persons.<sup>28</sup> Hence we have to ask, concerning every trans person, whether the prevailing physical gender features do not rather constitute a point of repulsion, because they do not conform to the experienced gender identity. In other words, we have to distinguish whether a person wants to transition to the opposite gender or rather wants to discard their own physical gender. In case the latter is still developing during puberty, the person might want to prevent its further reinforcement, which is experienced as alien and repulsive. Finally, it is important to assess whether the trans person needs a reassignment of the physical gender. For even if this may be so in most cases, possibly the person only needs another social gender identity.

## REASONS FOR INTERPRETING THE EXPERIENCED GENDER AS IDENTITY

The self-experienced gender is mostly denoted by the expression 'gender identity', which is also the target of strong criticism, particularly from within the social sciences.<sup>29</sup> We confront a problem of interdisciplinary communication here, since social sciences and psychology employ different concepts of identity. For the benefit of promoting a constructive interdisciplinary discussion and mutual understanding, I will in the following name the most important reasons for considering the experienced gender as an identity.

### Stability

Psychological and philosophical concepts of identity imply the continuity and stability of a property<sup>30</sup> across various moments and contexts. Experiencing oneself as belonging to a gender does as a rule not change like the mood of the day and can in that sense be considered as an identity. Being cheerful or sad, or having mood swings are accidental features, i.e. they come and go. They become a feature of a person's identity only if the mood or its swinging is permanently present. The self-experience as male or female is connected with an open-ended complex of self-positioning, choice of dress, physical comportment, behavior, ways of speaking etc. In this respect one usually adopts a long-term and stable stance.<sup>31</sup> A person's gender is not simply a characteristic like any other, but a permanent and rather stable feature which justifies calling it identity: it usually stays identical over long periods of time.

According to this terminology, we can say that if a trans person succeeds in making their social gender identity correspond to their self-experienced gender, the psychological gender identity possesses a higher stability than the social one. In such cases it is adequate to speak of a change of identity and not of a 'sex change'. Trans gender and transidentity can therefore be considered synonymous expressions, if we bear in mind that it is the social gender identity that is changed or performs a transition,<sup>32</sup> while the psychological one remains constant.

Concerning the social dimension, the main objects of criticisms are role attributions as well as the partly violent imposition of social identities, as demonstrate the therapeutic guidelines for the treatment of inter children in the last

<sup>29</sup> | See for instance Klöppel 2002.

<sup>30</sup> | 'Property' (syn. 'quality') is here to be understood in a philosophical (more precisely ontological) sense, i.e. as distinguished from objects, events, points in time or other types of entities.

<sup>31</sup> | If a person should continually change her (social or psychological) gender as others change their mood, then this transtemporal feature would constitute her gender identity.

<sup>32</sup> | Phrased in role jargon, the person takes on the male or female gender role. I do not use role terminology here because there is a wide range of male or female role expectations and roles to be played (mother, lover, sister ...), addressed to persons who have already been pre-identified as either male or female. It is this prior gender identity present in the social space, which can deviate from the psychological identity that is questioned here.

century. With respect to gender, this concerns the historically and culturally variable gender roles, but also social gender identity, for the attribution of gender specific roles to persons presupposes their identification as male or female. However, this criticism of identity-impositions only concerns the social and not the psychological dimension. Moreover, we should bear in mind that psychological concepts of identity differ generally from those of the social sciences.

The endeavor to minimize the importance of social gender identity, for instance by deleting the gender entry in personal documents, insurance or application papers, in no way excludes appreciating the fact that persons in a given gender system can have problems in finding a place that corresponds to their experienced gender identity.

The expression 'psychosocial gender identity' does not constitute a compromise, but rather confuses analytically what should be distinguished. At best it can be used where psychological and social identity concord; it is thus precisely not suitable for an adequate conceptualization of the realities of trans and inter persons.

The term 'sexual identity' is sometimes used to denote gender identity, but mostly for the identification of a person as homo- or heterosexual, the currently still dominant distinction in the area of sexuality. As stated above, the term should for reasons of clarity remain reserved for the discussion of sexuality, which would contribute to putting an end to the already mentioned confusion of trans genderedness with homosexuality and of inter genderedness with bisexuality. While trans and inter persons do have specific problems with sexual categorizations, their situations are not defined by these.

### The subject's autodetermination

Psychological gender identity is to be understood, more so than the social one, as the result of a construction process the individual participates in. This implies a departure from role theories that presume social role expectations to be simply adopted by the subject. The psychological gender identity is the temporary result of a process and is produced by individuals engaging with their surroundings.<sup>33</sup> It is an individual effort,<sup>34</sup> which does not mean, however, that it is a matter of

**33** | According to Money/Hampson/Hampson (1957) at the age of 18 months to 3 years; Kreisler (1973, p. 186) mentions two and a half years; according to Beier/Bosinski/Loewit (2005, p. 99) children can tell the difference between men and women at 18 months, and at three and a half years that they themselves will one day be a man or a woman. Money and Ehrhardt (1973) assume that the "gate to gender identity" remains open for a year after birth, but then closes forever. Cases of changing psychological gender identity of intersex persons contradict this assumption, as well as the identity theories of Erikson, Habermas or Kohnstamm (see Rieben 2008, p. 172) or the theory of Stoller (1968).

**34** | According to Rieben (2008, p. 173). The result is based on a broad analysis of the different psychological identity concepts, drawing on Piaget, Kohlberg, Erikson, Habermas, including Oerter, as well as concepts of gender identity and the interplay of social, personal and I-identity. For the development of psychoanalytical theory see Eckert (2010) or Quinadeau (2012).

random choice. Psychological gender identity is just as far from being something essential or natural as nationality is. Whoever insists on understanding identity in an essentialist way, i.e. as preordained and immutable, cannot do justice to the lived gender realities. We know that for inter persons the self-positioning in the gender system can take longer than usual, that it can (particularly in puberty) change and that it can deviate from male or female.<sup>35</sup>

We also know that trans people's adaptations of their somato-social gender to their psychological gender identity do not necessarily remain within the gender dichotomy. Even when complete concordance in the physical dimension is given, the self-positioning can adopt intermediary values on an assumed continuum between male and female or even go beyond this range (see above).<sup>36</sup>

### **Independence from the somato-social gender**

Acceptance of the psychological dimension of gender expresses respect for the special way of being of the particular person we are facing. This being cannot be reduced to the person's physical features or social position or, for that matter, to categories of the natural and the social sciences. Acceptance has not yet been achieved, however, if one only respects the experienced gender of the other as a feeling. Identity is more than merely a feeling or an impression of something that is somato-socially given. If one were to describe the situation of a trans boy as the feeling of a somato-socially clearly female young person of being a boy, this could – as has been the case for a long time – be interpreted as a delusion.<sup>37</sup> Experiences, impressions, feelings may change, they can delude and lead astray. The psychological concept of identity, by contrast, denotes a psychological reality that has highly positive significance for the individual. Thus understood, the concept of gender identity safeguards against the error of taking gender as something naturally given and of which the experienced gender would be purely a mental representation. For we may be inclined to see psychological gender as a pure proprioception, i.e. as a self-perception of one's own body. This view should be questioned, however, since it ignores the complexity of the human being. The conscious self-experience of its own gender is conveyed to every child from the very beginning through sociocultural interpretation patterns, so that it can never be a pure proprioception of the body. It is always also a positioning in the surrounding gender system, with all its accompanying meanings and implications

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**35** | See Beier/Bosinski/Loewit 2005, p. 62; Quindeau 2012, pp. 126 and 129; Richter-Appelt 2008, p. 59; Schweizer/Richter-Appelt 2012; Stoller 1968; Guhde (2002) describes a lived intergender identity.

**36** | Giordano 2008, p. 253.

**37** | In 1956 Jean-Marc Alby, a psychiatrist working with Lacan, introduced the term of transsexuality in the psychiatric nosography and treated it as a delusion (Fautrat 2001, p. 25).

of having to fit into a category, of having to be a girl, daughter, woman, potential mother, to wear pink dresses, to play with dolls etc., if you have a vagina; and if you have a penis, to be a boy, son, man, conqueror, potential hero, ruffian etc. As soon as proprioception reflects one's own physical gender in one's mind, these features and expectations found in the surrounding gender system are applied to oneself. But even this always already interpreted proprioception does not stand by itself but is accompanied by acceptance or refusal. The acceptance, up to the love for one's own physical gender features, is mostly too obvious to be noticed. In the case of trans persons, rejection can be profound, up to being repulsed by one's own bodily gender features and/or the position these imply in the given gender system. In contrast to proprioception that presents the body to the mind, gender identity contains the judgmental and emotional appropriation or rejection of one's own physical gender. When hormonal changes of the body occur, the individual proprioception also changes, and with it the knowledge of what it means to have a female body, or a male body, or an intergender body, and this is possible without a change in the awareness of being a girl or being a boy.<sup>38</sup> Only by differentiating the aspect of self-experience in gender-based proprioception on the one hand and gender identity on the other, are we capable of understanding and describing the situation of trans people adequately, without considering them as delusional or otherwise pathological. In inter adolescents it is in particular during puberty, due to the contradictory corporeal signals, that a questioning of their experienced gender identity is to be expected. Inter persons then have to re-establish, as they already did in early childhood, their place in the existing gender system.

### Legal and ethical anchor point

The human right to live according to one's own gender ties in with the psychological gender identity with its relative stability, auto-determination and conceptual independence vis-à-vis the social and physical dimensions. Gender identity is defined as "each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth [...]"<sup>39</sup> This

**38** | See the accounts of transmen about hormone treatments in the context of physical gender transitions.

**39** | The Yogyakarta Principles of March 2007, p. 8 "Understanding". These principles define the human rights in matters of sexuality and gender identity. According to Principle 18F "States shall ensure that any medical or psychological treatment or counseling does not, explicitly or implicitly, treat [...] gender identity as medical conditions to be treated, cured or suppressed." (p. 23). The Argentine gender identity law of May 2012 implementing this principle (sanctioned on 9 May and promulgated on 23 May. URL: <http://www.infoleg.gov.ar/infolegInternet/anexos/195000-199999/197860/norma.htm> [06.12.2013]) uses the same definition of (psychological) gender identity. In Germany, the problems of inter persons are formulated as those of "the right to individual development of an own gender identity" (Plett 2012, p. 137). A ruling of the German Federal Constitutional Court on the country's transsexual law also puts "finding and recognizing one's own gender identity" under the protection of the German constitution (BVerfG 2011, Rn 51; quoted in Plett 2012, p. 137).

identity is, as soon as it has formed, to be respected as a person's gender, and they must be given the right to live according to their gender identity. But first of all it must be given the chance to develop, without being preempted, imposed or impeded by parents or the medical establishment.<sup>40</sup> Ethics commissions, basing their assessment on psychological research findings,<sup>41</sup> have also come to use the concept of gender identity in this psychological sense, claiming that it should be put under the protection of the law.<sup>42</sup>

## LOOKING AHEAD

The scope of this paper did alas not permit a discussion of the arguments advanced against the interpretation of psychological gender as an identity. The analysis of the reasons that speak in its favor thus only aims to stimulate further discussion on this issue, which should be led with its critics.

The current debates in politics and legislation suggest that the term of 'psychological gender identity', already present in legal, ethical and medical discourses, will play an increasing role in the framework of the discussion on the well-being of children, since it serves to embed and clarify the protection of child well-being against societal, family or other interests. With growing awareness that neither the sciences nor ethics nor law can do without the psychological gender dimension, the interpretation of psychological gender will become more and more important. The 'identity'-controversy being rather an issue of interdisciplinary communication, it is of minor importance for the acute problems of trans and inter persons. The increasing acknowledgement of the psychological dimension of gender or so-called sex, no matter how interpreted, should in itself be conducive to improving their legal situation and lived reality.

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# The Art of not Being Categorized Quite So (Much)<sup>1</sup>

## A Critique of the Knowledge and Power of Sex

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*Éric Fassin*

### SUMMARY

In France the movement against Marriage for All has accused the so-called ‘theory of gender’ of being an unscientific ideology. This paper addresses three implicit premises of this polemic: 1. The opposition of science and politics is a misreading of Weber: the social sciences cannot be ‘neutralized’; they must be considered as ‘situated knowledge’ (Haraway, Harding). 2. The epistemological question (from Durkheim to Bourdieu): The categories that organize knowledge are based on a social process of categorization – both with respect to sexuality (Kinsey) and sex (Fausto-Sterling). 3. Sex is socially constructed: This is not about identifying a ‘true sex’ (Foucault), but about representation, which is always conventional. We inevitably categorize; critique, however, is the art of not being so categorized (Foucault): neither so much nor quite so.

### THE GENDER CONTROVERSY

In France, opponents of Mariage pour Tous (Marriage for All) also mobilized against ‘gender’, more precisely against that what the Manif pour Tous (Demo for All) liked to call ‘gender theory’. Banners against equal marriage displayed slogans such as ‘We want sex, not gender’ or ‘Marriage for All = Gender Theory for All’. This attack began even before the debate over the 2013 Taubira law that was to open marriage to same-sex couples in France. In fact, the Roman Catholic right had already launched a campaign in 2011 soon to be joined by the secular right, including many in the parliamentary majority supporting then-president Nicolas Sarkozy (80 MPs followed by 113 senators!). The campaign was aimed

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**1** | Original version in French.

against the new school curriculum in biology for 16-year-olds that included a section entitled: 'Becoming a man or a woman'.

The title is reminiscent of the famous pronouncement from the 1949 feminist classic *The Second Sex*: "One is not born, but rather becomes a woman." But Simone de Beauvoir did not use the term 'gender'. This concept was developed in the 1950s in the United States at the crossroads of psychology, psychiatry, and medicine, first by John Money (from Johns Hopkins University) and then by Robert Stoller (at the University of California, Los Angeles).

Starting from 'exceptions', namely intersex and trans persons (they spoke of 'hermaphroditism' and 'transsexualism' as people did at the time) whom they considered as pathological, this concept purported to analyze the discrepancy between (social) gender and (biological) sex. It was only in the 1970s that feminists appropriated the concept: they transformed this clinical approach meant to normalize individual anomalies, whether biological or psychological, into a critical one that questions the order of things. What is remarkable is that this feminist critique today is once again articulated through trans and intersex issues. This turns the history of gender upside down: today, the point is not to address abnormality, but rather the norm.

Since the United Nations World Conference on Women held in Beijing in 1995, the Vatican has become aware of the importance of the concept of gender – and the threat it poses from its perspective. The Roman Catholic Church has thus launched a crusade against (so-called) 'gender theory'. Speaking of gender, or simply claiming that we are not born, but rather become what we are, implies a denaturalization of the world, in other words, questions the purported naturalness of its norms and laws. This democratic 'trouble' is a defining feature of our society manifested in the globalized issue of gay marriage, which is about equal recognition of sexualities. In other words, the social order no longer appears as grounded in 'nature' (here: heterosexuality), but rather as defined by the democratic principles of freedom and equality that can be mobilized against sexist and homophobic norms.

This is what I have called 'sexual democracy'.<sup>2</sup> Liberty and equality do not actually define democratic societies; however, they are legitimately invoked in political battles. As a consequence, it becomes apparent that the order of things is not given by Nature, nor by God or Tradition; we are the ones who define the world in which we live. Democracy thus implies an awareness that laws and norms are established immanently, not transcendentally. They can be changed, negotiated, disputed, and challenged: they turn out to be historical, social, and

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2 | Éric Fassin (2005): *Démocratie sexuelle*. In: *Comprendre*. Revue de philosophie et de sciences sociales. Special issue: La sexualité, 6, pp. 263-276.

political. Sexual democracy is the extension of this democratic logic to gender and sexuality: far from being outside of politics, they are democratic issues, just as much as those pertaining to the economy, education, immigration, demography, etc. – if not more so, as sex has become a primary battleground in the struggle about the limits of democracy.

With this in mind, let us return to the war waged by ‘Demo for All’ against what it calls gender theory or gender ideology. While gender scholars may legitimately take some pride in becoming a target, we still need to point out that there is no unified theory or ideology in our field. Gender is a concept, and gender studies are defined by the confrontation of various theories but also ideologies. Beyond these simple remarks, what sense should we make of this attack against gender? The position of the conservatives can be summarized in three points: The first refers to the term ‘ideology’ and points to the connection between truth and politics. The second, linked to the term ‘theory’, has to do with epistemology – just like in the polemic launched by the religious right in the United States, which pits the theory of intelligent design against the theory of evolution. The third point has to do with the parallel oppositions of sex and gender, nature and culture, and biology and society. In short, this is about three things: the nature of truth, science, and society.

Countering these attacks on an intellectual level is not difficult. First, how can the enemies of ‘gender theory’ claim to speak in the name of science, given the fact that none of them belong to the world of science? And how could Demo for All speak in the name of pure truth against ideology, given that this is a political movement that federates the secular and the religious right? Second, why should the term ‘theory’ disqualify gender studies, given the fact that science always relies on theories? These may not be eternal (Einstein revises Newton); nevertheless, acknowledging this entails no skepticism: they still have to do with truth, albeit a provisional one. Third, there is something paradoxical about a biological defense of heterosexual marriage in the name of religion, not only because it implies conflating God and nature, which is rather unexpected in Catholic theology, but also because it assumes that there is such a thing as a ‘natural institution’ – an oxymoron that defies traditional logic.

## Science and Politics

Intellectually, the critiques leveled by the opponents of so-called ‘gender theory’ may not be very challenging; however, they can provide a starting point for other reflections. The first has to do with the relation between science and politics. This opposition is often associated with Max Weber – especially in France. ‘Value-freedom’ has been translated into French as ‘axiological neutrality’. In this perspective, politics has or should have nothing to do with science. Of course, a political interest can be a starting point for research (*ex ante*); conversely, the results can be used politically (*ex post*). But science itself is supposed to be apolitical; the scientific process, we are told, ‘neutralizes’ ideology. This is an argument that is often used against gender studies, whose feminism is under attack in the name of ‘neutrality’ – a most eloquent metaphor in terms of gender.

This is why it is worth going back to this imperative of ‘value-freedom’ bequeathed to us by a ‘founding father’ of sociology (to use an equally significant metaphor), relying on the work of Isabelle Kalinowski.<sup>3</sup> ‘Science as a Vocation’ (1917) and ‘Politics as a Vocation’ (1919) were published together in French as one volume under the title *Le savant et le politique* in 1959, translated by Julien Freund. Raymond Aron not only suggested ‘neutralité axiologique’; he also wrote an important preface. Inspired in part by Talcott Parsons, who presented Weber as a critic of Marx, Aron thus opposed neutrality to ‘intellectuels engagés’ in the context of the Cold War: the French translation of Weber thus became a war machine against Marxists.

There is something puzzling about this political neutralization. Like Aron, Weber himself was an intellectual who actively participated in public debates. This is why ‘value-freedom’ in his text does not refer to scholarship itself, but to the imposition of values to students in the context of teaching: this might be called propaganda. Professors should not abuse the power bestowed upon them by their profession. The question has to do with pedagogy, rather than research. By contrast, political values can actually be productive in the practice of science, as he suggested in his discussion of ‘value-freedom’ in 1917:

“One of our foremost jurists once explained, in discussing his opposition to the exclusion of socialists from university posts, that he too would not be willing to accept an ‘anarchist’ as a teacher of law since anarchists deny the validity of law in general – and he regarded his argument as conclusive. My own opinion is exactly the opposite. An anarchist can surely be a good legal scholar. And if

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**3** | Max Weber: *La science, profession & vocation, suivi de Leçons wébériennes sur la science et la propagande*, Isabelle Kalinowski, Marseille, Agone, 2005; see chapter IV: “Un savant très politique” (quote p. 199, quote Weber p. 196, New edition of the *Essais sur la théorie de la science*, translated from German by Julien Freund, Paris, Presses Pocket 1992 (1965), pp. 375-376). Kalinowski draws in parts on the work of the eminent Weber expert Catherine Colliot-Thélène and on the studies by Stéphane Baciocchi ‘Sur la postérité universitaire de Max Weber’.

he is such, then indeed the Archimedean point of his convictions, which is outside the conventions and presuppositions which are so self-evident to us, can equip him to perceive problems in the fundamental postulates of legal theory which escape those who take them for granted.”<sup>4</sup>

In short, a political positioning does not constitute a bias to be neutralized, but rather a perspective that sheds light on blind spots.

Claiming that science is not neutral but rather defined by political values does not mean disavowing its autonomy in order to praise its heteronomy. Indeed, one must clearly distinguish between scientific and political fields, in order to understand their specificities. Both are governed by distinct rules. The production of scientific truth is both subject to internal constraints (empirical proof and theoretical coherence) and external ones (control by the scientific community). What is at stake though is not neutralizing, but objectifying, that is, accounting for (instead of denying) the values that inspire as well as organize knowledge. This perspective invites us to reconsider the meaning of scientific autonomy. There is a common assumption in the social sciences that ‘the more scientific, the less political’, and conversely, ‘the more political, the less scientific’ – as if this were a zero-sum game: this is generally what the term ‘autonomy’ implies.

What if we understood the term differently – not through this opposition, but rather as a requirement that the inevitably political nature of science comply with the rules of scientific work? Instead of rejecting demands from society as a distraction from true scholarship, taking them into account can be scientifically productive: they can be a stimulus rather than an impediment. Of course, this does not mean that the social demands determine the answers given by scientists, nor even the questions they study. However, these external interpellations may encourage them to think anew. ‘Gay marriage’ has encouraged sociology and anthropology to consider new perspectives on marriage and family, just like feminism has led to think through the concept of gender, and more recently trans and intersex movements have fueled new approaches to the category of sex itself. Therefore, the goal is not to protect science against society, but on the contrary to reformulate social demands in terms that make sense scientifically.

Certainly, one has to remain cautious regarding the improper uses of scientific expertise that may deceive us into confusing truths and values. But so-called neutrality, whether in the name of ‘value-freedom’ or ‘scientific autonomy’, harbors other risks: science understood as value-free could also be free from value for society; interest-free, but at the same time devoid of interest, like socially useless speculation. As early as 1893, in another foundational work, Émile Durk-

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**4** | The Meaning of ‘Ethical Neutrality in Sociology and Economics’, see Shils, E.A., Finch, H.A. (Eds.) (1949): *The Methodology of the Social Sciences*. Illinois: The Free Press of Glencoe, p.7.

heim proclaimed in the preface to the first edition of 'The Division of Labour in Society': 'We would esteem our research not worth the labour of a single hour if its interests were merely speculative.'<sup>5</sup> By definition, the social sciences speak about society; it is all the more necessary that they also speak to and with society.

Let us now return to the issue of gender. Far from offering a weapon for the fight against gender studies, Weber's political epistemology echoes feminist epistemology first developed in English. This can be seen in the work of Sandra Harding and Donna Haraway.<sup>6</sup> The former speaks of 'standpoint epistemology', while the latter introduces 'situated knowledge'; as their analyses have grown through their dialogue, both converge on a crucial aspect. Feminist epistemology is not limited to unveiling and criticizing the androcentric biases of scientific knowledge; more fundamentally, it questions the notion of objectivity. However, it does not replace it with a celebration of subjectivity.

What this means is that knowledge is not elaborated through a process of abstraction – independent of the researchers' perspectives. Haraway vindicates 'the privilege of a partial perspective' against what she calls 'the God trick', that is an overarching, opinion-free view of the world. This 'partial' approach in no way constitutes a limitation of science: on the contrary, it includes suppressed perspectives, thus making visible what is invisible from a dominant standpoint. This should not be understood as a glorification of relativism. Rather, while 'objectivity' is usually contrasted to openly political knowledge, such as feminist science, this critique of 'the God trick' makes it possible to claim what Harding calls 'strong objectivity' – both because of the illumination of blind spots by alternative perspectives and on account of the dissolution of the illusion of neutrality through 'standpoint epistemology'.

### Categories of knowledge

With Harding and Haraway, the inquiry into the relationship between science and politics already leads to the question of epistemology, which is the second point mentioned in the beginning. If the notion of 'theory' is taken seriously, what is the consequence in terms of knowledge, rather than truth? This question will now be approached through a discussion of categories through which we apprehend reality – first, society, second, sex.

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**5** | Durkheim, É. (2014): *The Division of Labour*. Lukes, S. (Ed.): Society. New York: Free Press, p. 4.

**6** | Harding, S. (1986): *The Science Question*. In: Cornell University (Ed.): *Feminism*. Ithaca/London: Cornell University Press, chapter 1 and 6. Harding, S. (1993): *Rethinking Standpoint Epistemology: What Is Strong Objectivity?* In: *Feminist Epistemologies*. Alcoff/Potter (Eds.). London/New York: Routledge, chapter 3, pp. 49-82; Haraway, D. (1988): *Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective*. In: *Feminist Studies*, vol. 14, Nr. 3 (autumn 1988), pp. 575-599.



Categories and categorization have long been central in sociological theory. In 1903, Durkheim and his nephew Marcel Mauss analyzed ‘primitive forms of classification’. In ‘primitive’ societies, intellectual categories prove to be social ones - whether it be the structure of a village, the cosmology or the totemic system. “Society was not simply a model which classificatory thought followed; it was its own divisions which served as divisions for the system of classification. The first logical categories were social categories; the first classes of things were classes of men, into which these were integrated”.<sup>7</sup>

However, in 1912 Durkheim, in *The Elementary Forms of Religious Life*, goes even further. Not only are the logical categories organizing our notion of the world always already social categories, but conversely, society itself is founded on categorization. On the one hand, for the French sociologist, Kant’s categories such as time and space are social indeed; on the other hand, categorization itself is the necessary condition for life in society: it makes it possible to connect the individual and the collective.

“If men did not agree upon these essential ideas at every moment, if they did not have the same conception of time, space, cause, number etc., all contact between their minds would be impossible, and with that, life altogether. Thus society could not abandon the categories to the free choice of the individual without abandoning itself. If it is to live there is not merely need of a satisfactory moral conformity, but also there is a minimum of logical conformity beyond which it cannot safely go.”<sup>8</sup>

The political consequence of Durkheim’s argument is clear: outside of us and inside of us society “sets itself against these revolutionary fancies”. This does not go without brutality: “Does a mind ostensibly free itself from these forms of thought? It is no longer considered a human mind in the full sense of the word, and it is treated accordingly.”<sup>9</sup> A footnote even points to the connection between ‘social disorder’ and ‘psychological disorders’.<sup>10</sup> The fact that these categories are social does not imply for Durkheim that we are ‘free’ to change them: this would endanger society. In other words, sociology may show that the world’s construction is a mere convention, but this in no way allows altering categories.

In order to move behind the conservatism that links moral with logical conformism in the work of this French ‘founding father’, and before turning to sexual categories, it is useful to discuss two sociological models of classification that

<sup>7</sup> | Durkheim, É., Mauss, M.: *Primitive Classification*, (translated and edited with an introduction by Rodney Needham), (first publ. 1963) London: Cohen & West, 2009, p. 49.

<sup>8</sup> | Durkheim, É.: *The Elementary Forms of Religious Life*, (translated by Joseph Ward Swain) London: George Allen & Unwin Ltd. (1915), p. 17.

<sup>9</sup> | *Ibid.*

<sup>10</sup> | Durkheim, É., Mauss, M. (1974, orig. 1903): *De quelques formes primitives de classification. Contribution à l'étude des représentations collectives*. *L'année sociologique*, 6, 1903, reprinted in Mauss : *Œuvres*, volume 2, presented by Victor Karady, Paris: Minuit, p. 83. Durkheim, É. (1960, orig. 1912): *Les formes élémentaires de la vie religieuse*. Paris: PUF, p. 24.

derive and depart from Durkheim. The first model stems from Luc Boltanski, who in 1982 analyzed the social group of managers. The author observes how difficult it is to define the group and that this ‘haziness’ proves to be a necessary feature, rather than an accidental one. That is why “one must first renounce the idea of the definition as a starting point”: “Instead of trying to determine the ‘criteria’ that ‘should’ define the group and the ‘boundaries’ that ‘must’ be drawn in order to obtain a tangible and clearly defined object”, one should rather

“describe the form the group has acquired by investigating its group formation, the work of inclusion and exclusion that produces it, and by analyzing the social work of defining and circumscribing during the formation of the group that has contributed to objectify it and thus made it exist in a self-evident, matter-of-fact way.”<sup>11</sup>

Does not the same hold for all social classifications? It no longer suffices to proclaim the social nature of categories; far from insisting on their necessity, by denaturalizing them, sociology makes them less obvious – and thus less necessary. This is the lesson taught by Pierre Bourdieu: in his inaugural lecture at the Collège de France, the French sociologist emphasized the historical nature of this logic: “Sociology has to make its aim the fight for the monopoly of the legitimate representation of the social world, this struggle of classifications which concerns all kinds of class struggles, be they age classes, gender classes or social classes”.<sup>12</sup>

The political significance of knowledge thus becomes explicit: “The anthropological classification is distinguished from zoological or botanical taxonomies insofar as the objects it assigns their places are themselves classifying subjects. It is enough to imagine what would happen when, as in the fables, dogs, foxes and wolves could co-write the chapter about the family of canines.” In other words, “the classified, the badly classified, can reject the principle of classification that relegates them to the worst places.”<sup>13</sup> That classification is in the same measure a subject of investigation as the classes themselves “does in no way lead to an extinction of science in relativism”.<sup>14</sup> The sociologists become those who “attempt to express the truth about the struggles in which among other things truth is on the line”.<sup>15</sup>

The value of such an approach for the conceptual comprehension of sexual categories is clear. Let us bear this in mind when we go back to reading Alfred

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**11** | Boltanski, L. (1982): *Les cadres. La formation d'un groupe social*. Paris: Minuit, pp. 51-52.

**12** | Bourdieu, P.: *In Other Words. Essays Towards a Reflexive Sociology*, Stanford/Cal.: University Press & Cambridge/UK: Polity Press, p. 180.

**13** | *Ibid.*

**14** | *Ibid.*, p. 181.

**15** | *Ibid.*

Kinsey's work on the categorization of sexuality.<sup>16</sup> One figure became part of popular knowledge after the 1948 publication of his study on male sexual behavior: supposedly, 10% of men were homosexual. This remarkable percentage caused a shock in the United States; it later encouraged gay activists to appropriate the figure to emphasize their numerical and thus political weight. However, this makes no sense in Kinsey's study. The problem is that the question is incorrectly phrased, which points to a misunderstanding about what it means to categorize. Let us follow the scale he suggests, i.e. from 0 to 6 or from exclusive heterosexuality to perfect (absolute) homosexuality (to quote an ironic phrasing widely used in the gay culture: 'a perfect 6!'). Indeed we find that '10 per cent of the males are more or less exclusively homosexual (i.e., rate 5 or 6) for at least three years between the ages of 16 and 55'.<sup>17</sup>

This is a construction that draws its value from what it can explain. To put it differently, the arbitrary (or at least conventional) discontinuity of the categories reveals by contrast a continuum of practices and fantasies. This is clarified by Kinsey "While emphasizing the continuity of the gradations between exclusively heterosexual and exclusively homosexual histories, it has seemed desirable to develop some sort of classification which could be based on the relative amounts of heterosexual and of homosexual experience or response in each history."<sup>18</sup> The sexologist knows the difference with his work as a zoologist: "Males do not represent two discrete populations, heterosexual and homosexual. The world is not to be divided into sheep and goats. Not all things are black nor all things white. It is a fundamental of taxonomy that nature rarely deals with discrete categories. Only the human mind invents categories and tries to force facts into separated pigeon-holes. The living world is a continuum in each and every one of its aspects."<sup>19</sup>

This analysis bears on sexuality; but since Kinsey, the same argument opposing categorization and continuum has been made with regard to sex. In 1993 Anne Fausto-Sterling published in a scientific journal an article entitled: "The Five Sexes: Why Male and Female Are Not Enough".<sup>20</sup> The feminist biologist proceeded from the case of intersex persons, but instead of suggesting a third sex, she divided them into three categories, the herms (so-called 'true' hermaphrodites), the merms (male so-called pseudo-hermaphrodites) and the fermes (female so-called pseudo-hermaphrodites). Together with the two traditional sex-

**16** | Kinsey, A. C., Pomeroy, W. B., Martin, C. E. (1948): *Sexual Behavior in the Human Male*. Philadelphia/London: W.B. Saunders Company, p. 651.

**17** | See *ibid.*, p. 651.

**18** | *Ibid.*

**19** | *Ibid.*, p. 639.

**20** | Fausto-Sterling, A. (1993): *The Five Sexes: Why Male and Female Are Not Enough*. In: *The Sciences*, March/April, pp. 20-24.

es, that equals five. This thesis was so provocative that it even caused concern in the Vatican, almost as much as the work of Judith Butler did. Even biology no longer conforms to nature as it is commonly defined.

The biologist develops the paradox further: “But if the state and the legal system have an interest in maintaining a two-party sexual system, they are in defiance of nature. For biologically speaking, there are many gradations running from female to male; and depending on how one calls the shots, one can argue that along that spectrum lie at least five sexes – and perhaps even more.” Fausto-Sterling concludes: “sex is a vast, infinitely malleable continuum that defies the constraints of even five categories.”<sup>21</sup> In the text, the parallel with Kinsey is explicit. The point is to show that our binary notions of sex, as of sexuality, are in no way natural, on the contrary.

All the same, Fausto-Sterling’s argument can be questioned at least in one point, which she does herself in a revision of her article “The Five Sexes, Revisited” published in 2000 in the same journal:<sup>22</sup> “It might seem natural to regard intersexual and transgendered people as living midway between the poles of male and female. But male and female, masculine and feminine, cannot be parsed as some kind of continuum. Rather, sex and gender are best conceptualized as points in a multidimensional space.”

This raises the question of representations, namely metaphors, that do justice to reality. In France, Vincent Guillot, a leader of the intersex movement has later suggested a different ‘signifier’:

“A good option to locate ourselves on the gender map, i.e. to define ourselves, is the notion of the archipelago. It is a series of islands and smaller islands that possess on account of their proximity or distance common features - or not. [...] We therefore submit the notion of the intersex archipelago, if not the gender archipelago, without asking ourselves where this or that type of person is positioned, but instead only showing an interest in the persons themselves and in what they have in common: being beyond the binary of male-female.”<sup>23</sup>

As with every image, this one offers both advantages and disadvantages. On the one hand, it serves to avoid the polarization of the two sexes, but on the other hand it also inscribes discontinuity into reality itself. Therefore, instead of using another metaphor, why not shift our perspective from categories to cat-

<sup>21</sup> | Ibid., pp. 43-44.

<sup>22</sup> | Fausto-Sterling, A. (2000): The Five Sexes, Revisited. In: The Sciences, July/August 2000, pp. 18-23.

<sup>23</sup> | Guillot, V. (2008): Intersexes: ne pas avoir le droit de dire ce que l’on ne nous a pas dit que nous étions. In: À qui appartiennent nos corps? Nouvelles questions féministes, vol. 27, No. 1, coordinated by Kraus, C., Perrin, C., Rey, S., Gosselin, L. and Guillot, V., pp. 37-48.

egorization? In that case, the issue is not so much the continuum that defines reality but rather the discontinuities induced by representation. Perception is categorization: analyzing the world means categorizing it, which implies a form of violence: classifying means forcing into ‘pigeon-holes’. The point is not so much to avoid this but rather to direct the focus on the categorization and thus denaturalize this operation and its result – categories.

## Sex and Gender

In light of this discussion, we can finally return to the opposition between sex and gender. First, it is worth pointing out that sex is a State category – even more than a biological one. This is obvious if one considers sex change: the law defines the conditions required. The State comes first. The biological distinction between different definitions of sex (chromosomes, gonads, and phenotype) only comes second. As a consequence, we should not be looking to determine a ‘true sex’ (to borrow from Michel Foucault’s preface to *Herculine Barbin’s “Souvenirs”*),<sup>24</sup> but rather to analyze the social production of the truth of sex.

This leads to a shift of perspective: the point is not so much ‘true sex’ (as the Demo for All would have it) but ‘true gender.’ This becomes apparent when Fausto-Sterling revisits her argument about the ‘Five Sexes’:

“What is clear is that since 1993, modern society has moved beyond five sexes to a recognition that gender variation is normal and, for some people, an arena for playful exploration. Discussing my ‘five sexes’ proposal in her book *Lessons from the Intersexed*, the psychologist Suzanne J. Kessler [...] drives this point home with great effect: ‘The limitation with Fausto-Sterling’s proposal is that ... (it) still gives genitals ... primary signifying status and ignores the fact that in the everyday world gender attributions are made without access to genital inspection. ... What has primacy in everyday life is the gender that is performed, regardless of the flesh’s configuration under the clothes.’ I now agree with Kessler’s assessment.”<sup>25</sup>

Fausto-Sterling’s work follows a constructivist approach in which gender studies occupy a crucial place. But criticism of constructivism today no longer comes from alleged ‘essentialists,’ who want to preserve an untouched and thus unchangeable sexual order beyond history and politics. The anthropologist Priscille Touraille develops a critique of what she calls the ‘constructivist error’<sup>26</sup> from a feminist perspective that still eschews ‘naturalism’:

**24** | Foucault, M. (1980): “Introduction”, *Herculine Barbin*, translated by Richard McDougall, Pantheon/Vintage, Random House, pp. vii-xviii. Originally: *Le vrai sexe*. In: *Arcadie*, vol. 27, No. 323, pp. 617-625, included in *Herculine Barbin, dite Alexina B.*. Paris: Gallimard, 2013.

**25** | Fausto-Sterling, *Fives Sexes Revisited*, p. 22.

“Even though the radical constructivists do not assert that in a completely de-gendered society people would no longer be born with genitals, no longer develop breasts or facial hair or begin to menstruate during puberty, claiming that the connection between these features only stems from a social will is not the right epistemological strategy. Worse, it is an error, and the social sciences run the danger of paying for it dearly in their conflict of legitimacy with the natural sciences. If we want the concept of ‘gender’ to be accepted, then we have to negotiate the definition of ‘sex’ with the natural sciences”.

Touraille here aims at Butler, but also at Fausto-Sterling: “A feminist critique of biology that questions the scientific legitimacy of sex cannot be the only arena for such a negotiation.” As a consequence, she suggests “a point of view that positions itself between the moderate constructivism of the initial opposition of sex and gender, which leaves sex to natural sciences, and the radical constructivism that takes sex away from them.” The point is not that sex becomes what is left after gender, but, rather that it is at least in part its result. She asks: “And what if the gender norms had in the course of time been able to increase the number of specific biological gender variations, of selecting them?”

In other words, for Touraille, a recognition of sex does not mean denying gender or reducing sex to gender (as the radical constructivists do) and/or gender to sex (as the conservatives of all stripes do). The point is rather to speak up against a disciplinary entrenchment that separates the natural sciences from the social sciences.

However, the perspective adopted in the present text is a different one. The question is not so much to know what sex truly is. Nor is it about negating or affirming its truth. It moves from truth to the production of truth. Ian Hacking’s definition of constructivism as a proliferating scientific discourse of our times helps clarify this:

“Social construction work is critical of the status quo. Social constructionists about X tend to hold that: (1) X need not have existed, or need not be at all as it is. X, or X as it is at present, is not determined by the nature of things; it is not inevitable. Very often they go further, and urge that: (2) X is quite bad as it is. (3) We would be much better off if X were done away with, or at least radically transformed”.<sup>27</sup>

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**26** | Touraille, P. (2011) : L’indistinction sexe et genre, ou l’erreur constructiviste, *Critique*, 2011/1 n° 764-765, pp. 87-99, quotes pp. 87-88. See also from a different perspective Kraus, C. (2005): Avarice épistémique et économie de la connaissance: le pas rien du constructionnisme social. In: Rouch/Dorlin/Fougeyrolas-Schwebel (eds.): *Le corps entre sexe et genre*. Paris: L’Harmattan, pp. 39-59. (ed.), *Le corps, entre sexe et genre*, Paris, L’Harmattan, p. 39-59.

**27** | Hacking, I. (1999): *The social construction of what?* Cambridge, Massachusetts/London: Harvard University Press, p. 6.

The question we wanted to raise in the present text is not about what X really is (and it is remarkable that Hacking here uses a letter that is reminiscent of the sex chromosome) or whether it exists or not. Rather, it is about the fact that we only have access to truth (here biological sex) via representations passed on to us that we can also transform. In other words, since categories are only one representation of reality, we must devote our attention to the process of categorization. Here it is not so much about the pure reality than about its very real results: in Foucault's term, it is about the articulation between knowledge and power. Other categories are possible; the world could be different; indeed, it already has changed, and is changing.

The binary separation of sex has long been deemed 'good to think' (to use a phrase from anthropologist Claude Lévi-Strauss). But today, we are confronted with an epistemological question: do we still want to categorize this way? It derives from a political one: do we still want to be categorized thus? Not that it would be possible to escape the operation of power that is inherent in categorization; but at least we could hope that alternative categories might be less violent. At least, they would not claim to reflect truth itself, at the expense of those who do not fit in this 'true sex': They would only purport to offer a conventional truth, that is, a tool to think whose worth only resides in what it makes thinkable. If the order of things is not the true reflection of things themselves, then we can transform it: thus politicizing the anatomy, that is, of our representations of the anatomy, makes room for those who are now left out of the sexual order. This is a way to draw on Foucault's idea: the aim is less not being governed (here: categorized), but "not in this manner and not at this cost": The French philosopher's definition of the critique of governmentality can equally apply to categorization: "The art of not being governed in this manner" – neither so nor so much.<sup>28</sup>

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**28** | Foucault, M. (1990): Qu'est-ce que la critique? Critique et Aufklärung. In: Bulletin de la société française de philosophie 84, 2, Pp. 35-64. English edition: What is Enlightenment? Eighteenth Century Answers and Twentieth Century Questions. Berkeley: University of California Press, 1996. p. 38.





# Who has a Disorder? Who gets to Decide?<sup>1</sup>

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*Jörg Woweries*

## SUMMARY

This paper discusses the definitional power of medicine in the assignment of intersex persons, followed by a brief historical overview of the importance of notions of social norms particularly with reference to dichotomically organized normative concepts of body and mind. The right of self-determination and other human rights occupy a special place in the discussion about ascriptions of disorders, since it is precisely those incapable of giving their informed consent that are particularly affected by the application of medical measures. The critical discussion of certain hitherto standard medical practices not only sheds light on the implications for the individuals concerned and their personal environment, but also for medical practice. Looking ahead, the author also discusses the significance of legal solutions for individual and social practices.

## INTRODUCTION

Whoever turns to a doctor or a psychiatrist has to reckon with the likelihood that the mentioned issues are classified under the rubric of disease. The ICD 10 (International Classification of Diseases, 10th Version) constitutes the guideline for the work of these professional communities.<sup>2</sup> This is moreover used as the currently valid basis of the billing system doctors and psychotherapists use with health insurance organizations. Terms such as ‘intersexuality’, ‘hermaphrodite’ or ‘intersex-related constitutiveness’ do not figure in the systematic overview of the ICD 10. Specific diseases are named and assigned figures of the ICD 10, e.g. E25 adrenogenital disorder, E29 testicular dysfunction, E34.5 androgen insensitivity syndrome, Q56.0 hermaphroditism and others.

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**1** | Original version in German.

**2** | URL: <http://www.who.int/classifications/icd/icdonlineversions/en/> [20.06.2013].

The nomenclature of the Chicago “Consensus Conference” (Hughes 2006) substituted traditional terms such as ‘hermaphrodite’, ‘hermaphroditism’, ‘intersex-related constitutiveness’ or ‘intersex’ with Disorders of Sex Development (DSD)<sup>3</sup> translated in the German medical guidelines<sup>4</sup> with Störung der Geschlechtsentwicklung. According to this medical classification we have a case of DSD in “congenital conditions in which development of chromosomal, gonadal and anatomic sex is atypical”.<sup>5</sup> This also applies to people to whom neither an unambiguously male nor an unambiguously female genital can be assigned. The term ‘disorder’ was fiercely attacked, intersex persons were dismayed at being ascribed to disorder and disease. Self-help groups,<sup>6</sup> but also the network Intersexualität, based at the University of Lübeck, now uses the phrasing of ‘peculiarities of sex development’ (Besonderheiten der Geschlechtsentwicklung).<sup>7</sup> The self-help groups want to tone down the pathological implication of disorder in American usage. The proposal made by representatives of the intersex community to speak of Variations in Sex Development was turned down in Chicago (Thomas 2006). The Swiss Ethics Commission however supports this demand and speaks of Varianten der Geschlechtsentwicklung, translated as differences of sex development.<sup>8</sup> Disorders of Sex Development are considered in the systematic view of ICD 10 exclusively under physical aspects. In such cases, current procedures in medicine and sexual psychology presume a norm. What is happening here is thus a norming of biological diversity, referring to the dichotomous or binary notion of sex and gender?

As a next step in medical procedure, a deviation from the norm is regarded as a disease, illness or disorder. Everything that questions this normative order is portrayed as abnormal, unnatural or pathological. If we reject these concepts of medicine we can arrive at a different point of view.

Are variants of sex development really deviations from a norm? What is the norm here? Or is it about biological diversity? Milton Diamond speaks of biolog-

3 | URL: <http://pediatrics.aappublications.org/content/118/2/e488.extract#> [12.11.2014].

4 | Deutsche Gesellschaft für Kinderheilkunde und Jugendmedizin (DGKJ) (2010): Leitlinien: “Störungen der Geschlechtsentwicklung”. In: AWMF online – Leitlinien-Register Nr. 027/022. URL: <http://www.awmf.org/leitlinien/detail/II/027-022.html> [01.08.2013].

5 | URL: <http://pediatrics.aappublications.org/content/118/2/e488.extract#> [12.11.2014].

URL: <http://www.uksh.de/kinderhormonzentrum-luebeck/Forschung/Netzwerk+DSD.html> [01.08.2013].

6 | “Intersexualität, was ist das? Der Begriff bezeichnet biologische Besonderheiten bei der Geschlechtsdifferenzierung.” URL: <http://www.intersexuelle-menschen.net/intersexualitaet/> [01.08.2013].

7 | Intersexuelle Menschen e.V.: the network ‘DSD/Intersexualität’ deals with congenital particularities of sex development, or in the ‘official’ terminology Disorders of Sex Development (DSD). URL: <http://www.uksh.de/kinderhormonzentrum-luebeck/Forschung/Netzwerk+DSD.html> [01.08.2013].

8 | Swiss National Advisory Commission on Biomedical Ethics (Schweizer Nationale Ethikkommission im Bereich Humanmedizin) (2012): Zum Umgang mit Varianten der Geschlechtsentwicklung. Ethische Fragen zur “Intersexualität”. English version: On the management of differences of sex development. Ethical issues relating to “intersexuality”.

ical variants.<sup>9</sup> Mind games about the so-called third sex are of little help (Blackless 2000; Fausto-Sterling 1993). Because of the great diversity of phenotypes there is no unambiguous third sex. Biological sex is very complex and cannot always be clearly demarcated (Voß 2010). What is more important for intersex persons themselves, however, are the legal and cultural aspects, which can contribute crucially to their becoming visible and accepted? Drawing on Gronenberg (2012), it would be more appropriate to speak of persons 'in-between-sexes and genders' than of 'intersex'. This term has the advantage that it 'constitutes a clear rejection of questions of sexuality' (such as hetero-, homo- or bisexuality) and can avoid 'confusing intersexuality with bisexuality'. Due to the historical and socio-cultural contingencies and the different biological theories the terms are based on, the term 'inter'<sup>10</sup> seems to make a lot of sense.

In their internet forums many intersex people demand that in the registry of births and in personal files there should be no registered sex whatsoever. They say they find it degrading if – possibly inexperienced – delivery nurses or doctors determine the sex at birth based on the outer appearance as either exclusively male or female. This is why some intersex persons, when they reflect their situation as adolescents or adults, see themselves as, for instance, male and female, as both one and the other or as neither nor. But only very few are prepared to publicly admit to this status.

Intersex is however often confused with transsexualism,<sup>11</sup> mostly out of ignorance. The term 'transsexualism' is listed in the ICD 10 under gender identity disorders. This classification too remains linked to the system of illnesses.<sup>12</sup> In Germany for instance, changes of first name and gender are regulated in the Transsexuellengesetz (TSG) (Transsexual Act).<sup>13</sup> In 2006 the psychologist Ahler

**9** | In the original: 'biological varieties', Diamond, M., Sigmundson, H. K. (2009): Management of Intersexuality: Guidelines. In: Arch Ped Adol Med.

URL: <http://www.hawaii.edu/PCSS/biblio/articles/2010to2014/2010-intersexuality.html> [08.12.2011].

**10** | See contribution by Jörg Woweries in this publication: Intersex - Medical Measures on the Test Bed.

**11** | On the definitions: besides transsexualism there are also other terms in use with very different backgrounds and meanings that frequently defy fixation such as: trans identity, transgender, transsexuality, cross-dresser, drag king, drag queen. Here too the term 'Trans' seems appropriate.

URL: <http://en.wikipedia.org/wiki/Transsexualism> [01.08.2013].

**12** | In the medical classifications transsexualism is listed as follows: in the ICD 10, F64. For adolescents in the period of puberty also F66. In SOC-VI of the Harry Benjamin International Gender Dysphoria Association (Standards of Care for Gender Identity Disorders. Sixth Version, 2001). In DSM-IV (Diagnostic and Statistical Manual of Mental Disorders, American Psychiatric Association, 1994, fourth edition). DSM-V is due to be issued in 2013. Trans person organizations may possibly manage to have Gender Identity Disorders completely deleted from DSM and ICD. This term had been introduced in the version DSM-IV, substituting the term 'transsexualism'. The guidelines of the German Society for Child and Adolescent Psychiatry and Psychotherapy (published by the Arbeitsgemeinschaft der Wissenschaftlichen Medizinischen Fachgesellschaften/AWMF) agree with the statements of the ICD 10. As yet there are no German guidelines for adults. In the DSM-V, which has meanwhile come into effect, the term 'gender identity disorder' (in German 'Geschlechtsidentitätsstörung') has been replaced by the term 'gender dysphoria' (in German 'Geschlechtsdysphorie'). It denotes that there is no psychological disorder, but instead a significant psychological strain that justifies the application of medical measures.

URL: <http://www.dsm5.org/documents/gender%20dysphoria%20fact%20sheet.pdf> [10.07.2015].

gave a talk about transsexualism and transvestism.<sup>14</sup> He frequently mentioned dichotomy, a concept that can also be found in the text books. In psychoanalytical understanding the dichotomy of male and female has hitherto been taken for granted (Quindeau 2012). One can however observe that dichotomy is a guarded border. There are people who want to reach the other side of the border, men or women, each in the respective other direction.

The only thing they can show in the way of a border document is their own conviction that they want it this way: “I want to cross!” Ahlers identified gender by the normal physique, i.e. by whether one can detect a penis or a vagina, ovaries or testicles. Medical practice classifies persons attempting to cross this border as pathological and as having gender dysphoria,<sup>15,16</sup> because of the disorder of their gender identity,<sup>17</sup> and refers them to psychiatric treatment. However, neither psychology nor psychiatry nor anyone else in medicine is capable of reading the border pass of these people, i.e. their own will, meaning there is in effect not one single psychological or medical means of diagnostics. As a result, border fortifications are erected: long-term monitoring by psychological evaluators, numerous bureaucratic obstacles before being able to choose another first name, compulsory surgery and resulting infertility.<sup>18</sup>

But the German federal constitutional court took a different view and gradually eased the opening of the border.<sup>19</sup> “Pedagogical measures for re-education are nonsense” says the psychologist and psychotherapist Udo Rauchfleisch (2012), who believes it is important to dissociate ourselves from the concept of the pathological. There are therefore people who want to cross, want to cross completely. Others only want to do so temporarily. One thing has become clear here: there is life on the border. There are not many, but there are people on the border. It is not a no-man’s land.

**13** | Gesetz über die Änderung der Vornamen und die Feststellung der Geschlechtszugehörigkeit in besonderen Fällen (Transsexuellengesetz – TSG). (Law on changing the first name and gender status in exceptional cases) Federal law, 10.9.1980. The TSG does not concern intersex people.

**14** | On 12.09.2006 Ahlers presented the official stance of the Charité Berlin, Institut für Sexualwissenschaft und Sexualmedizin (Institute of Sexology and Sexual Medicine) in the Fachbereich für gleichgeschlechtliche Lebensweisen (unit for same-sex lifestyles, currently LGBTI Unit) of the Senate of Berlin.

**15** | Schweizer and Richter-Appelt also use this term for intersex people. Schweizer, K. Identitätsbildung und Varianten der Geschlechtsidentität, p. 459-484. Richter-Appelt. Psychologische und psychotherapeutische Interventionen: p. 357-361. Both in: Schweizer/Richter-Appelt (Eds.) (2012): Intersexualität kontrovers. Gießen: Psychosozial.

**16** | In her research on many intersex persons Richter-Appelt (2012b) also detects a great deal of vagueness in gender identity.

**17** | ICD 10: F64.

**18** | Law on changing the first name and gender status in exceptional cases (Transsexuellengesetz, TSG, §8).

**19** | BVerfG: 2 BvR 1833/95 of 15.08.1996 (Addressing transsexual persons after a name change). 1 BvL 3/03 of 06.12.2005 (naming rights and sexual self-determination). – 1 BvL 1/04 and 12/04 of 18.7.2006 (TSG and foreign transsexuals). – 1 BvL 10/05 of 27.5.2008 (transsexuals may remain married after gender reassignment). – 1 BvR 3295/07 of 11.01.2011 (civil partnership, without surgery changing visible sex/gender-related features).

## So where are the intersex people? The author's experiences

For almost three decades I worked at a large hospital in Berlin and was mainly occupied with the care for newborns. In the course of this work I encountered, in my initial examinations, newborns whose genitals did not correspond to the medical norm. When I began to enquire about what had become of these people I received no information. Only later did I realize that this is precisely part and parcel of the medical system. These people – we have now accustomed ourselves to referring to them as intersex people – had a genital which was treated as atypical, as a flaw, as a defect. Medicine and surgery in particular offered to make external adjustments to this so-called flaw by making it look like a genital determined as normal.<sup>20,21</sup> Due to a lack of craftsmanship – “it is easier to make a hole than to build a pole” (Diamond 2008) – in almost 80-90% of the cases superficially female-looking genitals were created. The parents were discouraged from discussing this with anybody, telling anyone about it, not the relatives, not even their own child, let alone the neighbors. The medical practitioners involved had caught themselves in a trap of their own making: With their conspiracy of silence, endocrinologists and surgeons have turned their backs on science. Because an indispensable attribute of science is transparency and critical evaluation of one's own results. For this reason there is to this very day a lack of controlled evidence-based findings,<sup>22</sup> i.e. proven findings (Clayton et al. 2002; Creighton/Minto 2001; Creighton 2004; Crouch et al. 2008; Hughes et al. 2006; Lee et al. 2006; Pagon 2010; Speiser et al. 2010; Stein et al. 2005). This is also a violation of the World Medical Association's Declaration of Helsinki. It demands that even the best current interventions be evaluated continually through evidence.<sup>23</sup> Some text books of psychiatry and somatic medicine only know the principle of right or left for the division of men and women. One frequently comes across the word dichotomous. That is Greek and means: separate, cut apart. Then there is nothing in between. Others speak of binary, that means yes or no, in the sense

**20** | Deutsche Gesellschaft für Kinderheilkunde und Jugendmedizin (DGKJ) (2010): Leitlinien: “Störungen der Geschlechtsentwicklung”. In: AWMF online – Leitlinien-Register Nr. 027/022. URL: <http://www.awmf.org/leitlinien/detail/II/027-022.html> [01.08.2013].

**21** | Dr. Dagmar l'Allemand, for instance, writes in the Swiss journal “Beobachter” 20, 2012, p. 25, about genital surgery on a girl: “Why shouldn't one determine the sex right away instead of letting this child grow up with ambiguousness? Why shouldn't one make sure right away that everyone – also the parents – are not reminded every day that it has a defect?”

**22** | Evidence-based medicine (EbM) operates with various levels of evidence: “Level 1: Evidence from systematic review of numerous randomized clinical trials. Level 2: Evidence from at least one randomized controlled trial Level 3: Evidence from at least one well-designed cohort or case control study, i.e. a controlled trial which is not randomized Level 4a: Evidence from clinical reports. Level 4b: Opinions of respected authorities, based on clinical experience, descriptive studies or reports of expert committees”. Text based on Wikipedia, URL: [http://en.wikipedia.org/wiki/Evidence-based\\_medicine#Assessing\\_the\\_quality\\_of\\_evidence](http://en.wikipedia.org/wiki/Evidence-based_medicine#Assessing_the_quality_of_evidence) [01.08.2013].

**23** | (WMA), Version 2008: A7, B 18. URL: <http://www.wma.net/en/30publications/10policies/b3/17c.pdf> [01.08.2013].

of modern scientific language: only occurring in two conditions, from the Latin *binarius*, twofold. There, too, there is nothing in between.

That is exactly what has happened to intersex people: dichotomy – they have been cut apart. These surgical interventions are performed as early as possible in infancy so that the children do not remember them (Eckhold 2008). In the forums of the individuals concerned one can read that they see themselves more as monsters, as freaks.<sup>24</sup> The word ‘flaw’ is used in a diplomatic obfuscation. Initially this was linked to intersex children because their genital did not correspond to the so-called normal appearance. Later they saw themselves as victims of a genital mutilation. Today they write about their feelings, anger and hate, even decades after surgery. Many suffer from serious psychological trauma. Schweizer and Richter-Appelt (2009) speak of a high degree of psychological strain and demand that the psychological needs of those who have undergone surgery be acknowledged. Intersex in particular graphically underscores the implications, one would like to call it insanity, of this construction – the construction of yes or no. On the one hand, there is the definition that there can be nothing between yes and no. On the other, people who find their own sex/gender identity, contested by no one, in the middle are denied their desired registration in the birth register as hermaphrodite. They are assigned arbitrarily and on compulsion to one side as male or, because of the simpler surgical technique, usually as female.<sup>25</sup> This can lead to the gender being entered contrafactually, i.e. incorrectly in the birth register. In so-called Western societies there is a strong pressure to decide for either male or for female. Presumably the great majority of people have no doubt about their own sex/gender. The parents of an intersex child can choose a sex/gender of rearing for their child, so either male or female. They can also paint the nursery pink or blue. But after that they should patiently wait and see how their child later decides for itself. But none of this can be seen as proof that the dichotomous or binary model also has a scientific/rational base.

This dichotomous, binary conceptual model of the yes or no can be explained with a glance into the history of science and is described in the socio-cultural science in different and partly contradictory ways.<sup>26,27</sup> I would like to offer a different perspective. If we look in other places of biological and medical literature we find descriptions of the human being that fit another, non-binary sex/gender model: there are indications that the personality of a human being

**24** | Very frequent statements by persons on whom this kind of surgery had been performed. URL: <http://twitterforum.ath.cx/index.php> [02.10.2011].

**25** | Netzwerk Intersexualität: Erste Ergebnisse der Klinischen Evaluationsstudie im Netzwerk Störung der Geschlechtsentwicklung/Intersexualität. 2008 (First findings of the clinical evaluation study in the network gender identity disorder/intersex): “until about 15-20 years ago there were a lot more children with ambiguous sexual organs who were raised as girls without any further diagnostics”, p. 13. URL: <http://www.netzwerk-dsd.uk-sh.de> [03.05.2011].

consists of many internal features that range on a spectrum between the two polar ideals of male and female. For Beier (2012) the behaviour of gender roles is of a statistical-descriptive nature and only becomes evident in the comparison of gender groups (Beier 2012: 747). At no point is it claimed that a feature, e.g. mathematical talent, only occurs in one single (male) gender and not also in the other (female) gender. Medical text books describe that typical male and female hormones should occur in both sexes (Fine 2010; Hines 2004; Lautenbacher et al. 2007; Pfaff 2011; Pinker 2008). All human beings combine features and behaviours which are, according to some views, assigned to either male or female on the grounds of evolution and biology, or, according to other opinions, are only read into them through cultural influences. One should be skeptical towards both of these interpretations and await further scientific results. They maintain that so-called women have a disposition for female and so-called men for male attributes, advancing proven gender-typical differences as evidence.<sup>28,29</sup> Through education, in particular gender roles, this development can be varied in the sense of nature versus nurture (Fausto-Sterling 2012). But we are dealing with individuals, so that role clichés, i.e. dichotomous thinking, do not do justice to the individual complexity and interindividual diversity. If we were to draw distribution curves for men and women of readings of, for instance, testosterone or estrogen, as well as of empathy, language ability, spatial awareness and many other characteristics, we would get curves that display a significant degree of overlap.

One can also phrase it differently: the sex/gender identity of every human being is constituted of a series of characteristics that are governed by the principle of much or little. For instance a great variation in physical form and size, as seems characteristic of men and women and that includes pronounced overlapping, is accepted by our culture. This is why some authors point to developmental biology and realize that believing in an absolute dimorphism is erroneous. The neuroscientist Cordelia Fine (2012) observes the numerous characteristics that are assigned in different ways more or less to men and women. She considers the views of other authors as prejudices and gender fairy tales, in which the

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**26** | Honegger, C. (1991): *Die Ordnung der Geschlechter*. Frankfurt a.M.: Campus. Laqueur, T. (1992): *Auf den Leib geschrieben. Die Inszenierung der Geschlechter von der Antike bis Freud*. Frankfurt a.M.: Campus. Maihofer, A. (1995): *Geschlecht als Existenzweise*. Frankfurt a.M.: Ulrike Helmer.

**27** | "Feminist theory generally makes a distinction between [...] sex and gender [...]." [...] "The separation between biological and social gender insists that there is no causal relationship between the two." Maihofer, A. (1995): *Geschlecht als Existenzweise*. Frankfurt a.M.: Ulrike Helmer, p. 19.

**28** | Spatial awareness. Aggressiveness in men. Men and women score differently in group coordination tests. Women score better than men in verbalization tests. Differences are also noted in sexual orientation. Fegert, J. M. et al. (2012): *Psychiatrie und Psychotherapie des Kindes- und Jugendalters*. Berlin/Heidelberg: Springer, p. 747.

**29** | Lautenbacher, S. et al. (2007): *Gehirn und Geschlecht. Neurowissenschaft des kleinen Unterschieds zwischen Mann und Frau*. Berlin/Heidelberg: Springer, p. 65.

differences between men and women are portrayed with much imagination. Many differences that used to be considered as unalterable have meanwhile disappeared. Ultimately she can detect no biologically founded difference in the behaviour of the two sexes/genders.

I would like to choose the polar model to describe the man-woman dualism. This model describes a continuum with two ends, is derived from the Greek polos and signifies an axis. This refers to the continuum between the two poles. There is therefore always something in between.<sup>30</sup> In this model, like the Earth with its two poles, all individuals will find themselves somewhere: every human being, not only intersex people, is somewhere on a continuum, on a broadly distributed spectrum between the poles.

Knowing this is important for dealing with each other: knowing about the variability of gender. I here also think of the term inclusion.<sup>31</sup> This term shows us that difference is completely normal. Intersex people are not the only human beings who show that difference is completely normal. Milton Diamond (2008a) speaks of biological variants. Susan Pinker (2008) applies this positive view also to the relationship of so-called normal men and women and observes it is after all an advantage if there are not only extremes. A broad diversity in social behaviour and in the biological constitution in men and women should be regarded with optimism. This is an enrichment of the diversity of human life. Why the dualism male/female in evolution has won over in the observations of the present will continue to remain a subject of debate.<sup>32</sup> I see an explanation in the principle of much or little. I do not here wish to elaborate on the socio-cultural literature on sex/gender identity and sex/gender roles. It is quite different to the medical-psychiatric system of definition. I would only like to mention Judith Butler (1995, 2003, 2009) here. With her critique of the traditional dichotomous, binary point of view she identifies problems at the gender border and the ensuing gender trouble. Defectors and border inhabitants, this is what we know from real life, also need border guards, barriers etc. Without a border, without binary/dichotomous divisions this would lead to mixings, to ambiguities and indeterminacies as well as uncontrollable relationships in a society that wants to defend gender dimorphism. Diamond (2008b) phrases this idea in the following way: "Biology loves variation, but society hates it". One always needs to ask: how do individuals find their way in the contradiction between their own choice and the social constraints of a frequently intolerant environment? In this sense there is a psychological and biological diversity of intersex people and there are different

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**30** | In contrast to my own view, socio-cultural literature very frequently uses the terms dichotomous, binary, polar and bipolar as synonyms.



forms of expression of representations of gender that elude a strict rigid control and, because of the violation of their human and children's rights by third parties, that should be subject of an anti-discrimination office that denounces phobias and intolerance.

### **Practical implications of this kind of medical approach**

The medical approach adopted over the years has led to two effects that significantly influence practice and are palpable in everyday life. The conspiracy of silence surrounding intersex people that has been an intrinsic part of the treatment system of doctors, has served to conceal information about this phenomenon from the public, resulting in large knowledge gaps in public perception. But the doctors themselves are often left clueless about the subsequent fate of these people.

Numerous consensus statements and reviews clearly registered a very significant lack of follow-up examinations (Clayton et al. 2002; Creighton/Minto 2001; Creighton 2004; Crouch et al. 2008; Hughes et al. 2006; Lee et al. 2006; Pagon 2010; Speiser et al. 2010; Stein et al. 2005). There is a lack of proven, i.e. evidence-based<sup>33</sup> controlled studies that are based on a high level of evidence. All there is at the moment are opinions of expert committees which corresponds to the lowest level of evidence, since these constitute subjective case-related assessments. Moreover there are for instance no data that compare the sexual-psychological health of girls and women that were subjected to early surgery (in the first year of life) and of those who had undergone later surgery (as adolescents or adults) (Speiser et al. 2010).

Hardly anyone of us knows intersex people in our everyday lives, as they usually conceal themselves to evade the kind of pathological evaluation as commonly applied by medicine. Zehnder and Streuli (2012) use the term 'stigma' and argue that intersex people endeavour to conform to normality and conceal their otherness. All figures are however just rough estimates. The only attempt at a very comprehensive count from 2000 to 2002 by the ESPED<sup>34</sup> was not successful, with only 21% responses from the many relevant clinics in Germany (Thyen et al. 2006). One estimate (Hughes et al 2006) based on an older calculation by a self-help group (ISNA)<sup>35</sup> states roughly 1 in 4500 births (Kleinemeier/Jürgensen 2008).

With approx. 680 000 births for 2008 one thus arrives at a total of around 340 intersex persons. This is a lot of people, possibly we can even assume one

**31** | Journal: Frühe Kindheit, Kindheit, 2, 2010: Inclusion of children with and without a handicap.

**32** | EMBL (2010): The Difference between the Sexes: From Biology to Behavior. Conference in Heidelberg. URL: <http://www.embl.de/training/events/2010/SNS10-01> [02.08.2012]. EMBL (2012): Biodiversity in the Balance: Causes and Consequences. Conference in Heidelberg. URL: <http://www.embl.de/training/events/2010/SNS10-01> [02.08.2013].

**33** | Evidence-based medicine (EBM): see footnote 22.

intersex person in every 1000 births, depending on which variants were not recorded. Voß (2010) describes a great number of genetically-related changes in the hormonal or anatomical blue print. Here another border appears, i.e. the principal question: which variant to take on board and which to ignore? If one includes hypospadias<sup>36</sup> then there are significantly more: again, roughly estimated, this affects one boy per couple of hundred births.<sup>37</sup>

Another source calculates after a detailed review of the pertinent literature in 2% of births a deviation from the ideal-typical male or female sex-related features and arrives at probably one or two cases with genital surgery, including hypospadias, in 1000 births per year (Blackless et al. 2000). One should note here that in approximately half of all intersex newborns the genital does not appear unusual, so the diagnosis of intersex is not yet obvious (Thyen et al. 2006), but only years later, for instance during or after puberty. In half of the intersex people with 46,XY-DSD the biological and patho-physiological cause remains unclear (Hughes et al. 2006).

### Are there possible solutions?

Until recently a number of demands put to legislative politicians included the deletion of a sex/gender entry in the civil register at any age, or at least the deletion of a sex/gender entry in the births register for all persons under 18 years of age (or until marriage) (Woweries 2011a). It is important to add that not only 'sex' plays a crucial role in society, but 'gender' too. Since 2009 it is possible to dispense with the entry of sex/gender in the birth certificate, but not in the register.<sup>38,39</sup> Only later, i.e. in adulthood, is the introduction of a further description besides 'female' and 'male' advocated, for instance 'other', as the German Ethics Council has proposed (but not: no sex/gender, for every intersex person has a sex/gender: their own), always without any compulsion and without legal proceedings. Sex/gender assignments or attributions by medical evaluators should in any event be forbidden by law. Only the persons concerned should be allowed to comment on this.

**34** | Survey unit for rare pediatric disorders in Germany (Erhebungseinheit für seltene pädiatrische Erkrankungen in Deutschland).

**35** | Calculation of specific variants see: Intersex Society of North America. URL: <http://www.isna.org/faq/frequency> [01.08.2013].

**36** | Hypospadias is a condition where the opening of the urethra is on the underside of the penis, on the scrotum or in the area of the perineum.

**37** | For instance in 1:125 to 1:300 of male live births. URL: <http://www.hypospadie.com/index.html?menu=2> [01.08.2013] or 1 to 8 in 1.000 births. URL: <http://www.urologielehrbuch.de/hypospadie.html> [01.08.2013]. The Hypospadie Zentrum Wien (Vienna Hypospadias Centre) gives 0,3 to 3,8 per 1.000 births, URL: <http://www.hypospadie.info/3.html> [01.08.2013], with significant regional differences owing to the effects of dioxins and furans, PCP, organochloride pesticides and insecticides, phytoestrogens and other substances.

In the past only very few intersex people have publicly admitted to leading a life between the two dominant sexes/genders. They came out in the open in order to draw attention to the situation of intersex people.

Parents are very confused, often even under a heavy psychological strain, if they are told that their child's sex cannot be determined unequivocally (Richter-Appelt/Schimmelmann/Tiefensee 2004). They are easily urged by doctors advocating an intervention or persuaded by others to choose surgery for their child. As a rule, this is performed when the infant is between two and twelve months old. A newborn child should however not be classified, provoked by the presence of medicine, under categories such as normal or not normal, or happy or unhappy (Woweries 2011b).

Diamond was one of the first to point to a different approach, namely dispensing with medical measures in intersex children (Diamond/Sigmundson 2009 [1997]).

On 31.01.2013 the Bundestag amended §22(3) of the Civil Status Act (PStG).<sup>40</sup> From now on children with ambiguous genitals need not be registered either as female or male, but are recorded in the birth register as children "without sex entry" (ohne Eintrag), besides boys and girls. This is a totally new situation. On the one hand, it should be appreciated that the existence of intersex people is also legally recognized. On the other hand, parents of a newborn intersexual child can be expected to possibly resist such a registration.<sup>41</sup> This new provision of §22 (3) PStG should above all not lead to the wish for cosmetic surgery (Woweries 2011a). It is however conceivable that in practice a doctor could, for a child "that can be assigned neither to the female nor the male sex", nevertheless have it registered under one or the other, either female or male. Here, the doctor either erroneously does not follow the procedure proscribed by the law or else – anticipating the presumed development – he advises the parents after the child's birth to have it registered either as a girl or a boy, thus in effect ignoring, deliberately or unwittingly, the legal provision for children with ambiguous genitals. The legislator has failed to take a changing development of sex/gender into account. What has remained unresolved and undiscussed is the question how to proceed if the parents come to realize in the course of the child's devel-

**38** | § 59 birth certificate: "(1) The birth certificate will include 1. the child's first name and name at birth, the child's gender, [...]. (2) If so requested, information according to section 1 No. 2, 4 and 5 is not included". However, a certified copy of the birth register has to be presented when marrying, enrolling at school and for numerous social welfare benefits applications.

**39** | Since the term 'gender' is actually wrong it should say 'registered civil status'.

**40** | §22 (3) PStG: "If the child can be assigned neither to the female nor the male sex, then the civil status case must be entered into the birth register without this information."

**41** | German ethics council, Intersex, statement: (personal translation) "Experts report from professional experience that a significant number of parents cannot accept their children if their gender remains undetermined.", p. 88.

opment and education before, during or after puberty that they, or their child, regard a different sex/gender than the one previously assigned as the more adequate one. What can these people, as adolescents or adults, apply for themselves at their own initiative and under what medical and administrative conditions? Such – multiple – changes must not and cannot be declared every time as a “rectification by” reviewing doctors. It is only a person's own free choice for their gender that should be considered in social life and legislation. Comprehensive information of all those concerned is necessary to ensure that intersex people are not discriminated in the family, in the neighbourhood, in the kindergarten or at school, which would ultimately lead to psychological stress. The network Intersexualität has already identified many cases in the past where it was possible to avoid discrimination. Moreover, the majority of parents with an intersex child who discussed it with friends or neighbours did not experience any stress. Only 6% of the intersex people reported as adults today negative reactions when mentioning their own situation.<sup>42</sup> On the other hand, ¾ of all adolescents do not want their parents to discuss their situation with others.<sup>43</sup> The majority of parents of intersex children will presumably choose to raise their child in one of the two traditional gender roles as a boy or a girl. Richter-Appelt's recommendation is important here that the parents speak candidly and lovingly with their children: about day-to-day life and about the sex/gender identity the child will later choose for itself – this is very important for the developing gender identity (Richter-Appelt 2012b).

It would be desirable and should be demanded that § 22 (3) PStG permits a choice via implementation regulations laid down in new paragraphs of the PStG. There should not be a permanent entry already after birth, for this new provision induces an outing (compulsory outing) in day-to-day life that is not the child's choice.

Here it should be ensured that only the persons concerned can decide on the identity of their gender. A low-threshold transition has to be possible too, because with some intersex children it is only during or after puberty that a different situation emerges. With around half of all intersex newborns (Thyen et al. 2006) an intersex variation can only be detected at the time of puberty or after.

It remains important that health-related self-help groups and independent psychological counseling become an integral part and are financed. The ethical guidelines and principles contain a number of recommendations (Wiesemann

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**42** | Kleinemeier, E., Jürgensen, M. (2008): Erste Ergebnisse der klinischen Evaluationsstudie im Netzwerk Störungen der Geschlechtsentwicklungen. p. 34. URL: <http://www.netzwerk-dsd.uk-sh.de>. [03.05.2011].

**43** | Ibid, p. 35.

2008), including: “Categorizing gender exclusively on the basis of biological and morphological facts fails to do justice to the individuality and subjectivity of the individual as well as the contingency of gender identity on social and psychological factors.”

All human beings have a body of their own.

All human beings have a gender identity of their own.

All human beings should be able to decide for themselves!

Imposed, dichotomous concepts, norms for body and mind  
curtail human rights.

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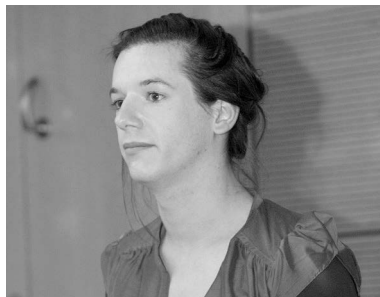
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## An Unusual Way of Addressing Sex/Gender<sup>1</sup>

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*Tanguy Trillet*

This contribution reproduces the performance of the actor Tanguy Trillet, illustrated with selected material. The photographs were taken by Michel Burmat.



Good morning everyone.

I feel particularly flattered to be able with you speak this morning. Well, I am a bit excited. But then I think the coffee I had this morning has me geared up. Add to that a good dose of confidence and I can share my view about sex and gender with you. A very modest view, mind you!

I don't have the expert's perspective of some of those present here have. Instead, my observations stem from an experimental quest. A personal and empirical analysis. I hope this won't bother you and that you will show leniency towards the spontaneity of my observations ... Right! I think the coffee is beginning to have effect. Let's get started!

First of all, I'd like to introduce myself. My name is Tanguy. Tanguy Trillet. In my professional life I am playing at being an actor. Yes, things like that happen! As an actor, I work with a cultural Association for politics and education 'Impulsions Femmes', which is based in France, in Niort. Niort is situated in Deux-Sèvres, which Luxembourg has nothing to be envious about! Our association endeavours to question norms of society and of the family, as well as forms of socialization, and we reflect on the reproduction of modes of behaviour, sexualities, and the sexed and gendered organization of our society and corresponding patterns of action. Our field of practice is culture. Our mission is that all people have the opportunity to reflect and evolve at any time, at any age.

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<sup>1</sup> | Original version in French.

About a year ago I met Dr. Erik Schneider. Erik Schneider who is present here today. Erik? Erik. Hi there, Erik! So, about a year ago I met Erik. We met during a conference organized by the Institut Émilie du Châtelet in Paris. Hi Emile, if you happen to be listening. While we were discussing my work, Erik had the idea that I could contribute something to the colloquium today. Erik wanted to attempt a totally new approach to the concept of sex and gender. The guests were to be challenged directly with the subject of 'Gender Trouble'. Judith, that was meant for you. And to all the other thinkers of modernity. Yes, you there. You, who hone wise words that heal our aching wounds! Your words on our wounds. What wholesome words, what worthy wisdom ...<sup>2</sup>



Where were we? Anyway to you, you who are addressing the question that gender poses: who am I dealing with? Is he he? Is she she? Is he he or she? Is she she or he? Is she he or she? Where is he she or he? Is he or is she she or he? Where is she or he, he or she? Where is he or she he or she? Where is she/he he or she? Where is s\_he s\_he? Where is s\*he s\* he? Where is s\_he s\* he? Where is s\*he s\_he?

In short, I have tried to perform or incarnate these questions. Showing through performance that gender is always performed. And I speak of incarnation in the literal sense. My profession makes it possible. To use the tools of transformation for being another person, for slipping into another role. So, I created the character, Marion. Marion, whom you met yesterday and this morning and

**2** | Vous qui pensez des mots pour panser nos maux! Penser/panser, mots/maux. Penser e-n des mots m-o-t-s pour panser a-n nos maux m-a-u-x. E-n/a-n, m-o-t-s/m-a-u-x...



who is now on the point of disappearing before your eyes.

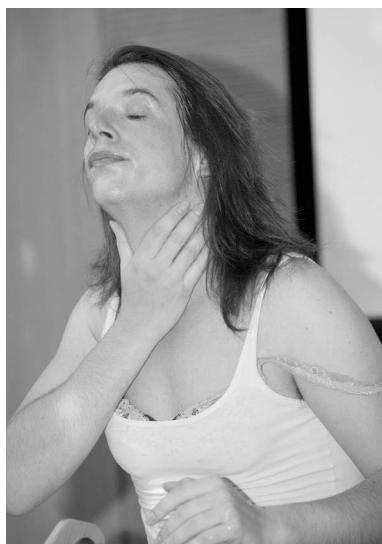
In the theatre there is nothing strange about a man assuming the role of a woman. In antiquity people always wore masks and costumes. Only men were allowed to enter the *proskene*. In Elizabethan theatre of the 16th century, which included for instance Shakespeare, we also find this particularity. Our Juliet was actually a Julius! Today, too, men play women, for instance in some strongly codified theatre forms in Asia such as Kabuki or Bunraku. That was history of the theatre in 35 seconds...

But careful, playing a role is not lying, don't get me wrong.

In playing many of Molière's characters, you are fooled by no one. I assure you, performing is not tricking. On the contrary, performing is creating a truth. And creating a new truth means fighting against the logic of the social majority who wants to squeeze people into preconceived categories. With my performance yesterday, I wanted to make clear that the categories imposed on us can be transgressed and that this transgression is a truth. To be true. To be honest. That's what we learn in the theatre! To be honest in our role. We learn and refine this in the course of our training. In the end it becomes a 'play'. Slipping from one role into another.

Playing with the identities, as in child's play, but maybe not adolescent play. Adolescence! The casting room where these developing social creatures challenge each other. Teens! Kinds of stars whose becoming is informed under sufferance, by institutions they encounter along their path, just like actors who bow to the top brass of the block buster film industry.

The scene of adolescence I refer to here offers a significantly richer enactment of identities in contrast to the simplifying blockbuster. However, success is assured to those, alas, who conform to the sex/gender norms more personal emancipation which is 'the happy end'. Thus, gender is first and foremost a role. A role you define yourself. Scripts or stage directions can perhaps offer models, but in the final analysis it's you who decides. We are all our own directors. And there's not just one role. There are so many! Our repertoire has more than just a Hamlet and an Ophelia! Roles and genders go beyond the binary, two-gender representation. They do not limit themselves to female and male. They offer so many other possibilities.



What has caused my transformation now? That is the crucial question! Where did the incarnation of Marion get me? Well, I admit, not particularly far! The physical search for representing a female character was very fascinating for me, to be sure. But the concrete realization was a lot more complex. Not that I felt un-

comfortable in this role. No. I found it even rather pleasant. But in my relationship with you this was different. I couldn't talk too much about it. Not talk too much about it in order not to disclose my true identity. The contact with you, as honest as it was, was also limited. As if I couldn't take the encounter right to the end. Regarding your reactions, I certainly didn't feel any awkwardness nor did I have the idea of being exposed to wary glances. But that was to be expected. We have to admit that my contribution here blends into an environment favourable to the issue of trans-identity. Here you are well informed and in an empathetic environment. Fortunately! But as Howard Becker has said in his book "Outsiders", a person can at the same time observe the norms of one group and violate those of another. We know that the cognitive structures of the social majority infiltrate the social world, and that trans-identity is generally regarded as deviant behaviour. Let me therefore quote once more Howard Becker: "Deviance is not a quality of the act a person commits, but rather the consequence of the application by others of rules and sanctions upon an offender." Let us therefore not forget that gender is also defined through the look of the Other. This look of the Other is in the broadest sense that of our society. This look which submits the I to a classification. And I say I, I say I, but alright, the I, that's us. Corresponding to the codes we have completely internalized we all create a role. According to Bourdieu! And these Others who look at us with judgmental eyes, that's us too! The I is us. The Other is we and the we are we. The I-we, the Other-we, the We-we!





To conclude I would like to quote Jean de la Fontaine and one of his countless practical lessons: The fable of the Woods and the Woodman. A wood-chopper had damaged or lost the piece of wood that served him as a handle for his axe. So he asked the forest whether he could carefully take a branch from which to fashion a new handle. In return he promised to take his trade elsewhere. The forest, who, it must be said, was a bit naive, granted the request. As soon as this happened, the woodchopper attached the handle to his iron and felled the forest.





Therefore I say:

Let the tormentors come, we will concede nothing! Let us fortify ourselves against their sanctions whatever they may look like. Let us reinforce our branches and our glorious foliage and let us not let our forest of uniqueness be cut down by the chainsaw of normativity!

Thank you very much.

Salut et liberté!



## **CHAPTER 3: BIOMEDICINE**



# The Sex of Knowledge: Sexuated and Gendered Anatomy<sup>1</sup>

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*Sylvie Deplus*

## SUMMARY

This contribution explores the question whether the human body, such as it is currently taught in anatomy in France, should be regarded as sexuated and gendered. The author works as an ophthalmologist and teaches general anatomy at the University Paris Diderot – Paris VII, and in that capacity her purview is the science of the body, from tip to toe, a constellation which in this form is not very common in France. The article's point of departure is an US-American study by Lawrence and Bendixen (1992) 'His and Hers: Male and Female Anatomy in Anatomy Texts for U.S. Medical Students, 1890-1989'. This study primarily serves to raise the question which body is seen as reference for anatomy as taught in France today. The current teaching situation is discussed in the second part of the contribution.<sup>2</sup>

## RESULTS OF THE STUDY BY LAWRENCE & BENDIXEN (1992) ON FEMALE AND MALE ANATOMY

The conclusions of this article are clear: the human body is male. The female body is discovered via an opposition, in most cases to the its disadvantage. This contribution critically assesses the standard anatomy textbooks usually used in medical studies in France. Like many of the author's colleagues (with very few female colleagues among them), she also had no choice:

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**1** | Original version in French.

**2** | For technical reasons of reproduction, the illustrations in the present contribution were partly selected from German sources, since the originals presented in the paper were not reproducible. The new selection closely follows the original material in consultation with the author and underscores the statements of the text. Also note that the contribution follows the paper 'The sex of knowledge' ('Geschlecht des Wissens') presented by the author at the conference "Gender Normativity and its Effects on Childhood and Adolescence" ('Geschlechter-normativität und Effekte für Kindheit und Adoleszenz') held in Luxembourg on 28 September 2012 and therefore dispenses with a detailed indication of sources.

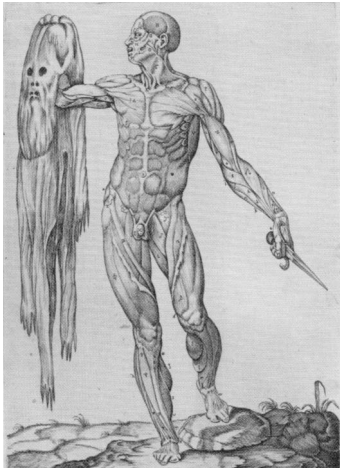


Figure 1: Hierarchization of the sexes from: *Hier freut sich der Tod, dem Leben zu helfen. Anatomie in Heidelberg gestern und heute*. In: *Schriften der Universitätsbibliothek Heidelberg*, vol. 13. Effinger/Kirsch (Eds.) (2013), Heidelberg: Universitätsverlag Winter, p. 139.

The basic model of the human body that she could present to the future doctors was inevitably male. This contribution will first give a brief historical overview of the modalities of the study of anatomy, followed by a number of examples from the textbooks used in teaching, first dealing with the representation of non-sexuated/non-gendered parts of the body like the head or limbs and subsequently with clearly sexuated/gendered parts of the body such as chest and perineum. The article, which was written by a curious anatomist, concludes with a number of practical applications.

The study by Lawrence & Bendixen (1992) analyzed a total of 31 books.

Title	Year of publication	Author	Edition
Gray's Anatomy	1893	Pick	13.
Morris's Human Anatomy	1907	Morris et al.	4.
Quain's Elements of Anatoy	1908	Schäfer et al.	11.
Human Anatomy	1923	Piersol	8.
Cunningham's Textbook of Anatomy	1937	Brash et al.	7.
A Method of Anatomy	1948	Grant	4.
A Method of Anatomy	1952	Grant	5.
Morris's Human Anatomy	1953	Schaeffer	11.
Gray's Anatomy	1954	Goss	26.
Concise Anatomy	1956	Edwards	2.
Anatomy of the Human Body	1959	Lockhart et al.	1.

Title	Year of publication	Author	Edition
Anatomy: A regional Study	1960	Gardner et al.	1.
Essentials of Human Anatomy	1961	Woodburne	2.
Anatomy: A regional Study	1963	Gardner et al.	2.
Grant's Method of Anatomy	1965	Grant, Basmajian	7.
A Textbook of Human Anatomy	1966	Crafts	1.
Reconstructive Anatomy	1968	Arnold	1
Essentials of Human Anatomy	1969	Woodburne	4.
Basic Human Anatomy	1972	Tobin	1.
Synopsis of Gross Anatomy	1972	Christiansen	2.
Clinical Anatomy for Medical Students	1973	Snell	1.
Textbook of Anatomy	1974	Hollinshead	3.
A Textbook of Human Anatomy	1979	Crafts	1.
Clinical Anatomy for Medical Students	1981	Snell	2.
An Introduction for Human Anatomy	1981	Green, Silver	1.
Anatomy as a Basis for Clinical Medicine	1985	Hall-Craggs	1.
Clinical orientated Anatomy	1985	Moore	2.
Essential Anatomy	1987	Lumly et al.	4.
Clinical Anatomy	1989	Lindner	1.

*Table 1: Overview of the anatomy textbooks reviewed by Lawrence & Bendixen; information on the edition refers to the one analyzed in the study.*

The selected chapters from each of the textbooks discuss parts of the body which are regarded as relevant for a sex/gender-related analysis, such as thorax, pelvis or the perineum. The analysis shows the following:

1. The sex depicted in the illustrations is male twice as often as it is female. Gender-neutral figures (in French: 'représentations asexuées' are also depicted.
2. A comparison shows that the descriptions of the male anatomy occupy twice as much space as those of the female. For example, the description of the dorsal nerve of the penis comprises ten lines, while the dorsal nerve of the clitoris is given two lines.
3. The oppositions are always made from the man to the woman, or the woman is added in parentheses. For instance, in the homology of penis and clitoris or scrotum and external labia, a detailed description of the external labia is eschewed. The two body parts are thus ultimately regarded as the

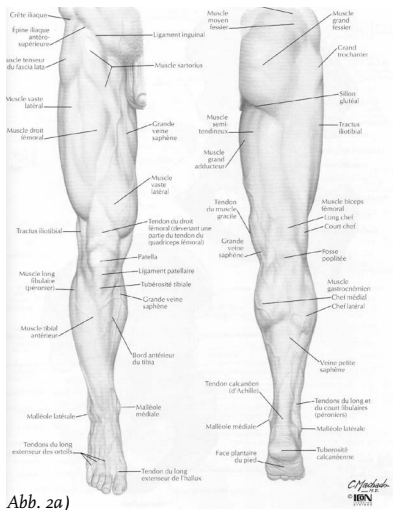
same. In another homology the woman is presented as an inferior man: "Imagine that [...] the male perineum is divided longitudinally." The student is expected to discover the female perineum on the basis of a male body with "slight changes".

4. The terms used are likewise not neutral: the descriptions are generically masculine, the female terms are added in parentheses. Thus, we find the term 'testicles' in the continuous text and 'ovaries' in parentheses. The adjectives used towards the end of the oppositions always describe the parts of the female anatomy as comparable to the male ones, but also always as less: less big, less developed etc.
5. In addition, there are almost absurd phrasings using supposedly unisex terms: In newborns, the peritoneum supposedly extends to the base of the prostate. The peritoneum is a serous membrane that covers the organs inside the abdomen and the pelvis. It is evident that the peritoneum of the woman does not extend to the prostate. A further example is that of the inguinal canal which leads to the external sexual organs, and which is depicted as the result of the descent of the testes. This is wrong in 50% of the cases. It is nevertheless the accepted definition.

In summary one can say that

- in comparisons the male occurs significantly more frequently than the female;
- this conclusion holds true regardless of the historical periods under review;
- in illustrations the ratio male to female is 2:1;
- male linguistic forms dominate in the text;
- the depiction of gender-neutral facts such as muscles or nerves are embedded in male silhouettes and are fashioned with a penis as well.





social life, art and science, is contrasted with the female body, soft, sensitive and adjusted to domestic life and family. The only area in which the woman for a long time occupied the first place is the size of the pelvis, although this notion has by now been disproved by current studies (Peyre 2012). These observations are based on the author’s review of the following anatomy textbooks used in France:

Title	Year of publication	Author
Anatomie artistique de l’homme	1973	Barcsay, J.
Anatomie	1979	Gardner, E., Gray, D. J., O’Rahilly, R.
An introduction to human anatomy	1981	Green, J. H., Silver, P. H. S.
Anatomie humaine en fiches	1985	Cabrol, C.
Répertoire illustré d’anatomie humaine	1986	Feineis, H.
Traité d’anatomie artistique	1988	Richter, P.
Anatomie parle mouvement	1989	Calais-Germain, B.
Atlas of Human Cross-Sectionnal Anatomy	1990	Cahill, D. R., Orland, M. J., Reading, C. C.
Anatomie topographique, descriptive et fonctionnelle	1991	Bouchet, A., Cuilleret, J.
Anatomie et physiologie humaine	1993	Marieb, E. N.
Human Anatomy	1994	Rohen, J. W., Yokochi, C.
Atlas anatomique Sandoz : tête et cou, tronc, membres	1994	Sandoz
Anatomie générale	1995	Chevrel, J. P.
Gray’s Anatomy	1995	Gray, H. u.a.
Grand cours d’anatomie artistique	1996	Szunyoghy, A., Feher, G.
Photographic atlas of practical anatomy	1997	Thiel, W.
Atlas en couleur d’anatomie humaine	1998	Abrahams, P. H. et al.
Petit atlas d’anatomie	1999	Kamina, P.
Nomenclature anatomique illustrée	1999	Delmas, V.
Anatomie humaine	2002	Rouvière, H., Delmas, A.
Surface anatomy	2002	Lumley, J. S. P.
Atlas de neuroscience humaines de Netter	2003	Felten, D.
Biomécanique fonctionnelle. Membres – Tête – Tronc	2005	Dufour, M., Pillu, M.
Atlas de poche d’anatomie	2007	Platzer, W.
Atlas of human anatomy and surgery	2007	Bougery, J. M.
Anatomie générale PCEM 1	2008	Delmas, V.

Table 2: Overview of the textbooks reviewed by the author.

In the following, some examples that illustrate the different perspective on bodies attributed as female or male will be discussed:

The male pelvis is usually depicted as smaller than the female one, connecting the latter to the childbearing function of the female body. The vascularization of the organs on the other hand is explained systematically using the male body. In a classical American atlas of neuroscience by Netter (Felten 2003), the innervation of the pelvis through the hypogastric plexus is also explained using the male body, while the pelvis of the woman is depicted as a deviation. The urethra is first depicted in the male and then in the female body. The same applies for the bladder.

To which degree this gender-discriminating visual representation is also reflected in the area of language will be discussed briefly using a number of examples: The abdominal cavity is considered completely separated from its external environment, except for in the female body. Actually, 50% of the ovaries are located inside the abdominal cavity, which is of particular significance for certain diseases such as ovarian cancer which can metastasize in the abdominal cavity. The expression except for is therefore misplaced. "Regarding the gonads the peritoneum displays a very different behavior. During its movement through the inguinal canal the testes remain surrounded by the peritoneum. The process that can be observed in the female gonads is completely different." The reference here are the testes which indeed move, while the ovary remains inside the abdomen and is regarded as completely different. "[...] the pelvis, due to the reproductive function attributed to it, [...]" What kind of determinism is attributed to the female pelvis? What function does the female pelvis serve? The hypothesis that it serves childbirth has been disproven by current studies on the size of the female pelvis. In an anatomy atlas with illustrations of anatomical cross-sections, a sagittal section of the female pelvis is accompanied by the comment: "The small pelvis [supposedly contains] the anatomical symbols of life and of death." The chapter entitled 'The Perineum' of an atlas of descriptive topography by Bouchet und Cuilleret (1991) features a male perineum with the description "region where the scrotum is located", without mentioning or describing the female perineum. Elsewhere in the volume, the upper part of the page shows a male perineum, the lower part a female perineum. In the introduction to the anatomy atlas Gray's Anatomy it says: "The perineum contains the external genitalia and external openings of the genitourinary and gastrointestinal systems."<sup>3</sup> The female urogenital region is displayed first, while in the text the penis is

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**3** | Drake, R. L., Vogl, A. W., Mitchell, A. W. M. (2015): Gray's Anatomy for Students. Third Edition. Pelvis and Perineum. Oxford: Churchill Livingstone/Elsevier. URL: [http://www.hopkinsmedicine.org/mcp/Education/300.713%20Lectures/2014/Byung\\_Kang\\_Pelvis\\_09.15.2014.pdf](http://www.hopkinsmedicine.org/mcp/Education/300.713%20Lectures/2014/Byung_Kang_Pelvis_09.15.2014.pdf) [16.07.2015].

discussed before the clitoris. Frequently the male urinary tract is depicted before the female one. Only a few works maintain the equality of women and men by showing a bisected perineum, one side representing the male, the other the female. Highly illustrated works covering the complete male and female anatomy also only rarely feature illustrations of the female perineum or the female breast. Kamina (1999) shows only patterns of male body hair. According to a definition from *Le Tronc* (the abdomen) by J. P. Chevrel et al. (1995), the mammary gland and the breast are “the most-studied parts of the female body.” The description however begins with the man and the child, accompanied by adjectival connotations regarding the description of the different shapes of the female breast: “pointed, conic, pear-shaped, sagging.”

What is the purpose of these differences in the observation and description of physical features that are connoted as female or male? It seems that this is not discussed, as if it were normal. Let us take a look at embryology: in the embryology of the exterior sex-related organs the development of female organs occurs for all embryos in the course of the third month. The clitoris develops from the genital tubercle, the urogenital tract remains open, and the labia majora develop from the genital swellings. In the then possibly developing male sex-related organs the genital tubercle elongates, the genital swellings condense and the structures grow together to the scrotal raphe. The female phenotype thus precedes the male.

The circumference of the waist is understood as a secondary sex-related feature and is also used to identify overweight. In a textbook on functional bio-mechanics (Dufour/Pillu 2005) the waist circumference or the waist has become a psychologized separation between top and bottom. In Georges Brassens’ song *Venus Callipyge*,<sup>4</sup> the waist even becomes the neck of the pelvis, whose measures constitute an identity feature that is sufficiently discussed in women’s magazines: “Your back loses its name with such good grace / that one can’t help agreeing with it.” (in French: “Votre dos perd son nom avec si bonne grâce // Qu’on ne peut s’empêcher de lui donner raison.”) Fat and fatty tissue is generally not sufficiently considered. As a rule, only its hormonal significance in the context of some disorders such as HIV is mentioned. It is not until their first dissections that medical students discover how ubiquitous fat is in the human body.

It remains to be considered whether there is such a thing as the perfect body. We are led to believe it when we think of the drawings of Leonardo da Vinci. In anatomy, points of reference, perfect proportions continue to be studied and measured on the male body.

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4 | Brassens, G. (2012): *Venus Callipyge*. URL: <http://www.youtube.com/watch?v=vZM7WiW9WBo> [19.12.2013].

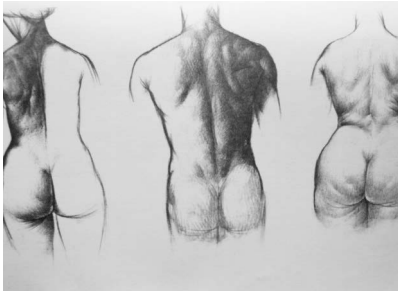


Figure 3: Male torso as reference. In: Barcsay, J. (1973): *Anatomie artistique de l'homme*.

In anatomical art books, for instance, beauty ideals are placed in an androcentric focus. Often the male torso is depicted between two female ones as if it were the model torso shown between two others, who have attractive, but apparently less significant features (Barcsay 1963).

In a textbook on functional bio-mechanics (Dufour/Pillu 2005), body posture is sexed/gendered through depiction and description. The functional bio-mechanics point to a self-assured posture in the man.

A male back also serves for the depiction of epidural anesthesia, where the nerve endings in the lumbar region are anesthetized. What is not mentioned is that this anesthetic method is common practice for pain relief during labor.

If, as mentioned above, there is a link between the waist and the measurement of overweight, then we find a further gendering of the issue of overweight in connection with the circumference of the thorax. “A too large circumference of the thorax can lead to a thoracic kyphosis.”<sup>5</sup> “There are two forms of hernia,<sup>6</sup> minor hernias in younger people and major hernias in older, overweight or multiparous women.” When the inguinal region is described using the male anatomy, the following comment clearly reflects a discrimination of the female body: “[...], in the woman it (the inguinal region) is a source of malformations, hernias etc.” Aging is also represented in a gender-discriminating way when we read: “The first phase is marked by falling hor-

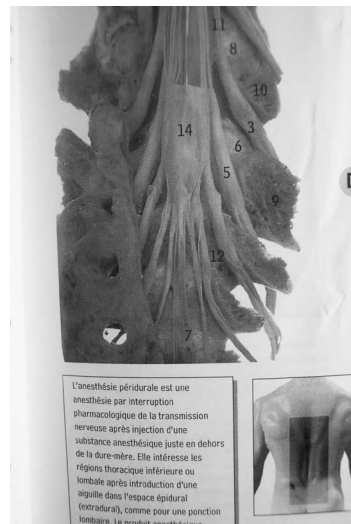


Figure 4: Explanation of epidural anesthesia using a male torso.

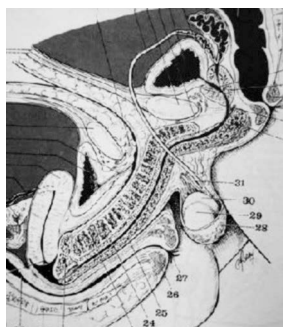
5 | An outward (convex) curvature of the spine.

6 | A hernia is the exit of an organ, such as the bowel, through the wall of the cavity in which it normally resides.

mone levels and proceeds in the man without any serious changes, while the woman suffers from osteoporosis, overweight as well as physical and psychological adynamia.” Contrary to a 19th century study according to which the female brain weighs 150 grams less than the male owing to the weak development of its frontal, parietal and occipital lobes and the cerebral cortex, there are no current studies that could prove a gender-specific difference of the brain that can be considered beyond doubt as predetermined by nature. (Vidal/Benoit-Browaeys 2005: 15).

## CONCLUSION

If this brief overview has shown to what extent sex/gender stereotypes are still present in anatomy, then let me conclude with a last example that illustrates how much this discipline, which primarily works with descriptive techniques, serves as a projection surface for gender models.



In Bouchet and Cuilleret (1991) we find the following depiction of a “cross-section of the pelvis and the perineum of the man and the woman during sexual intercourse”. As a rule, however, anatomical depictions are based on cross-sections of frozen and dissected tissue. This representation is therefore the depiction of an imagined cross-section.

*Figure 5: Drawn cross-section of the pelvis and the perineum of the man and the woman during sexual intercourse (from Bouchet/Cuilleret 1991).*

In conclusion I should point out that this article is the result of a self-critical reflection of an anatomy lecturer. In studying the issue, the author became aware of the problem and of the fact that for a long time in the course of her medical teaching, she completely unconsciously and inadvertently transmitted stereotype gender models and thus also the still predominant gender hierarchy. After detailed debates with colleagues, this paper aims to sensitize lecturers, students and the editors of medical textbooks for recognizing the naturalizing conformism of this stereotype representation of anatomy and for ultimately avoiding it.

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# **Determining Sex/Gender: Genes and DNA Precisely Do Not Predict the Development of a Genital Tract...<sup>1</sup>**

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*Heinz-Jürgen Voß*

## **SUMMARY**

Biological research of the past decades that attempted to attribute the determination of sex to only a few genes has failed. Neither the gene SRY (sex determining region on the Y chromosome) nor additively added genes led to a reasonably consistent and convincing understanding of sex determination. With complexity already being discussed for quite some time in the natural sciences and biology under the terms 'system organization theories' and 'system biology', this way of thinking is now gradually being embraced in biological sex and gender theories: it concerns the investigation of developments and processes whose outcome is not already presumed by researchers.

## **INTRODUCTION**

Beginning with some historical observations this contribution offers an introduction into developmental thinking and, drawing on current theories of sex determination, identifies the potential of such observations for more complex and more convincing theories of sex/gender determination than those hitherto used. The emphasis on development, on developmental processes constitutes a departure from the notion of predetermining elements. Instead it is necessary to take the entire organism and its interdependencies with its environment into account. This means that from the perspective of current biological science the focus has to be on the communication between the various parts of the cell as

well as on the communication between different cells, their integration in the organism and the influencing factors from their environment. Genes and DNA precisely do not predict the developments of an organism or, in this case, of a genital tract. Instead they merely represent one among many factors in the complex interplay of cells.

### **Preformation or development – opposing concepts**

The debate whether physical features are already preformed in the earliest stages of the embryo or only develop over time, so that one can observe an increasing complexity of the developing organism, has in the past shaped notions in natural philosophy, biology and medicine about embryonic development and continues to do so.

Already in Greek antiquity we find two different models regarding this issue. Drawing particularly on the atomist Leucippus of Miletus (around 460 BCE) and Democritus of Abdera (460-371 BCE), one school of thought assumed that the semen of the parents<sup>2</sup> contained extracts (atoms) of all parts of the body. According to this theory, arms, legs and other body parts were present in minuscule units and constituted the basic elements of an embryo. In the genitals these features would supposedly agglomerate, with the features of the corresponding atoms of the female and the male semen competing and the semen present in greater quantity and strength asserting itself. The embryo would in this way be preformed. This school of thought is also referred to as the theory of pangenesis. It also forms an important basis of the writings of Hippocrates<sup>3</sup>, only that according to him the semen does not constitute itself from the atoms of the parts of the body, but rather from the body fluids and body tissues.

A contrary view associated particularly with the name of Diogenes of Apollonia (499/98-428/27 BCE) and Aristotle (384-322 BCE) was the haematogenous theory of reproduction. This theory posits that the semen is formed from blood. The semen would then not be the extract of the parents' body parts – as posited by the pangenesis theory – but there would occur a real transformation process from blood to semen. Aristotle attributed this process to heat by which blood is boiled down to semen. And here he saw a major difference between the sexes: thus only the man – and here also only one who is not too old, or too young, or too fat – would have commanded sufficient heat for boiling the blood to semen. The woman, by contrast, due to the greater frigidity Aristotle attributed to her, would only have been able to form an incomplete pre-stage of the semen, so-

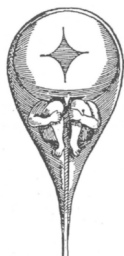
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**2** | According to Leucippus and Democritus both women and men had semen.

**3** | The Corpus Hippocraticum comprises writings from between the 4th and the 1st century BCE.

called catamenias. That the woman had, as he believed, no complete semen was one of the reasons for Aristotle to reject the pangenesis theory, because it did not explain the presence of the uterus.

The 18th century debate over the preformation theories of the ovists and animalculists on the one hand and the epigenesis on the other represented another crystallization point, where the theories of preformation and development (transformation or developmental processes) were discussed so prominently side by side. In the late 17th century the preformation theories emerged. These theories presumed that in either the female conception contribution – described by the ovists – or in the male contribution to conception – advanced by the animalculists – the individual was already preformed in miniature or that at least the extracts of all parts of the body were already present. The corresponding theories of the ovists are particularly associated with the names of Regnier de Graaf and Marcello Malpighi. Animalculism is fundamentally linked to the use of the microscope invented in that time. While examining a drop of male semen under the microscope Antoni van Leeuwenhoek and Nicolas Hartsoeker among others discovered a host of moving animalculi – little creatures, a meaning that is reflected in the term ‘spermatozoa’ still used today (see Illustration 1). The essential point of the preformation theories is that from the very beginning on the complete individual or all its parts are preformed in the egg or the semen, so that there is no real development but a mere increase in size.



*Illustration 1:*

*Preformation in the male semen, according to Nicolas Hartsoeker. (source: URL: [http://www.hps.cam.ac.uk/visibleembroys/sl\\_4.html](http://www.hps.cam.ac.uk/visibleembroys/sl_4.html) [04.07.2011]).*

These preformation theories of the ovists and the animalculists fitted nicely into the prevailing social order and into society's established notions. It was presumed that a higher power – a god – had created the world at a particular point in time. Everything that existed, exists, or will ever exist can be attributed to this creator god. Correspondingly some scholars connected their theories on the preformation of the individual in the semen or egg with the Christian religious

notions of creation: Adam or Eve would already have contained all subsequently living human beings within themselves.

The preformation theories quickly became a target of criticism, since they did not serve to explain occurrences such as regeneration and the healing of wounds. This was illustrated by a popular experiment: if one cut a polyp (simple multicellular organism, Cnidaria) in half it was shown that overnight each of the two halves had formed a complete small polyp. These observations were hardly reconcilable with the assumption of a creator god. A further important point of criticism was that features of a child common to both parents could not be easily explained with the preformation theories or only in roundabout ways. Both points of criticism were repeatedly advanced by scholars of the time and ultimately had the effect that in the late 18th century developmental thinking, also regarding the views on embryonic development – epigenesis – gradually asserted itself.

Epigenesis no longer assumed that the individual was already completely preformed in miniscule units, with only a growth in size occurring, instead it was believed that first there was unformed matter from which only through developmental and differentiation processes increasingly complex, shaped matter developed. It was only as a result of these processes that body parts and organs of the embryo were formed. And neither would development have stopped with birth, instead transformations would have taken place all the time, and in this way regeneration and the healing of wounds would be possible. The detailed theory of epigenesis goes back to Caspar Friedrich Wolff – he described development and differentiation as necessary for embryonic development. While Wolff's ideas were first met with a guarded response, also because he analogized the force that was to fuel the development to other mechanical-physical forces, the epigenetic view gained currency with the observations advanced by Johann Friedrich Blumenbach. He had suggested a formation drive as the force fueling the development, in the sense of an activity that could only be performed by living things.

In the same way the preformation theories have to be considered against the background of social conditions, this applies to epigenesis as well. It is remarkable that as of the middle of the 18th century developmental thinking gained currency in all sectors of society. This was evident in scientific geographical and physical observations (genesis of the earth through cooling, electricity etc.), in philosophical descriptions (one now followed the theories of Spinoza, Spinozism) and even in theology (changes in the understanding of god, also drawing

on Spinozism). Last but not least the French Revolution made clear that social order too is not preordained by a god and thus unchangeable for human beings, but that society is shaped by human beings guided by reason. The importance of the transition to evolutionary ways of thinking has been variously emphasized in research, see for instance Lepenies 1978; Rheinberger 1981 and Engelhardt 1986. Alfred Schmidt (1984: 10) observed with a view to natural sciences: "The most important qualitatively new aspect of the situation forming around 1800 in the field of natural sciences is the ultimate triumph of evolutionary ways of thinking."

### **With evolutionary thinking to communalities of the sexes**

The significance of evolutionary thinking should also not be underestimated for the biological-medical sex/gender theories. In the preformation theories the female and the male sex were presumed to make very different contributions to conception. The embryo was purported to be preformed in the conceptive matter of one sex, while the conceptive matter of the other sex fulfilled other functions. Both the ovists and the animalculists minimized the female contribution to conception. Thus even the ovists who believed the preformation to occur in the female egg held that the motive principle regarded as significant for development resided in the male semen. The animalculists reduced the female contribution to conception even further – it consisted, they said, solely in carrying and nourishing the embryo. On the basis of the descriptions of the conceptive matters further differences were identified. Also the places where eggs (ovaries) and semen (male testicles) agglomerated would have been different – up to the 17th century they had not even been differentiated terminologically, rather the term testicles was used both for the female and the male sex, even though individual differences were named. In addition there were supposed to be differences in the blood vessels supplying the ovaries and the testicles and in the vessels transporting the conceptive matter.

Further sex-related differences were identified for the genital tract, but particularly for breasts and pelvis. Developmental thinking reflects a significant change: epigenesis presupposed (mostly) equal contributions to conception by woman and man. Correspondingly one dispensed with differentiating terminologically between semen and egg or testicle and ovary and the conceptive matter of the woman and the man were both denoted as semen. But even though the terminological differentiation was retained by a few authors, it was still assumed that the contributions to conception were involved in equal measure in the

embryo and its development. Based on the mixed, combined contributions to conception it was thought that embryonic development would proceed via development and differentiation processes (see Voß 2011a: 85 ff., Voß 2011b).

If the preformation theories made it possible to link differential descriptions of additional features to the differences of contributions to conception, these became irrelevant with the assumption of (in most part) identical contributions. Now it was also possible to describe commonalities of the sexes regarding the places of formation, the incoming and outgoing vessels and other features of the genital tract. This is evident from a closer look at the works published around 1800. An example: The physician and professor of anatomy Jacob Fidelis Ackermann (Ackermann [1805] wrote in 1805: "Each individual can potentially contain the conceptive parts [genitalia] of both sexes"; later he added:

"From the presented description of the conceptive parts [genitalia] it is evident that in every individual both kinds of genital organs are present (in their rudiments), but that only one sex emerges outright and that the penis is analogue to the clitoris, the prostate to the uterus, the urethra to the vagina, the testicle to the ovary, the ductus deferens [carrying-away duct] to the tubes [Fallopian tubes: oviducts, footnote, HV], the scrotum to the external labia."

Even though Ackermann differentiates here between the female and male genital tracts – this is already clear from the differentiating terms –, something else seems to have been important to him, namely the similarities of the organs of the female and male sex. He builds on the assumption that every embryo initially, i.e. in the first stages of development, contains both genitals and only with further development and differentiation a more or less unambiguous sex emerges. This observation is by no means trivial but marks a significant change of perspective: every embryo would at first have the potential to develop either into a female or a male direction. Sex-related differences could therefore not be fundamental but merely relative. They would not be describable as being radically different, as an either-or, like recent sex/gender research has identified for the biological-medical sex/gender theories since the 18th century, but would move within the framework of a temporal relative or a more-or-less. This was far from being a minority view. It is found both in the works of the Romantic natural science and the speculative natural philosophy but also in empirically oriented authors such as Ackermann. In the course of the 19th century this theory became the dominant perspective of those who concerned themselves in biology and medicine with the development of sex in embryonic development. The contro-



versy was carried out on an entirely different level. The debate was over whether in these sex-related rudiments, which had the potential to develop both as female and male, the points of departure for both sexes would be present one next to the other (which would make them hermaphrodite) or whether both sexes had a common point of departure which then differentiated in different directions (and more or less unambiguously). A quote by the physician Heinrich Wilhelm Gottfried Waldeyer (later Waldeyer-Hartz; Waldeyer 1870: 152 f.) illustrates the self-evident way in which the embryo's initially both female and male potential is propounded as well as the point of controversy described above:

"But a different point, also not insignificant for teratology [study of abnormalities of physical development, footnote HV], follows with certainty from the observed, namely that the primordial disposition of the individual even in the highest vertebrates is a hermaphroditic one. Until now one has attempted to interpret the strange comportment of the genitals in their initial development in such a way that a neutral common, indifferent condition as it were would exist, from which development proceeded either to one side or the other, so that sometimes a male and sometimes a female individual is created. But here one has relied far too much on the comportment of minor things, for instance that of the external genitals. Here indeed there exists an indifferent, neutral primordial condition as it were, which then evolves either towards the male or the female side. This can however be no surprise to us since we have in the external genitalia of both the man and the woman anatomically the same structures that only develop in the different individuals in different directions. [...] But if one looks at the development of those structures which constitute the nature of the two sexes, the two gonads, then an indifferent, neutral, as it were, primordial disposition is difficult to envisage.<sup>4</sup>[...]; in other words, every individual is on a certain level of their development a true hermaphrodite."

Today, too, the view that the genital furrow or the genital ridge (the first cells from which the genital tract evolves during embryonic development) has the potential to develop both in a female and a male direction is still the dominant position in developmental biology.

### **Every human being is both female and male at the same time**

Others went even further. They held the view that this condition in which female and male appeared together is not limited to the embryo or the early stages of the embryo, but that human beings combine female and male features within themselves all their lives. This view too was not altogether new – a tradition for

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**4** | Other authors were not of this opinion, which probably led Waldeyer to explicitly address this subject. The works of the medically trained publicist Johanna Elberskirchen, who also contradicted Waldeyer's view, are of interest in this context (see Leidinger 2008, Voß 2011a: 97f., Voß 2011b).

this perspective in terms of intellectual history emerges for instance with respect to the spherical people in Aristophanes' speech in Plato's *Symposium* and with the Chinese notions of Yin and Yang (see Römer 1903; Neuer Berliner Kunstverein 1986). Descriptions that every embryo has the potential both for female as well as male development and that the first stages of development are sex-related indifferent enabled science to tie into these traditions. One of the representatives for such a perspective around 1800 is Wilhelm von Humboldt, particularly known for his theoretical writings on linguistics, but who was also interested in natural philosophy and attended lectures on his subject (also see: Rosenstrauch 2009: 100, 107 ff). Humboldt wrote:

"But the supreme and consummate beauty not only requires unification but the most precise balance of form and material, of artifice and freedom, of mental and sensual unity, and this one only achieves if one welds together the characteristic of both sexes/genders in one's thoughts and forms humanity from the most intimate union of pure masculinity and pure femininity. But to even find such pure masculinity and femininity is inordinately difficult, and from experience well-nigh impossible." (Humboldt 1959b [1795]: 81)

A little later he adds (Humboldt 1959b [1795]: 102): "Of these two characteristic features of the human form, whose specific difference disappears in the unity of the ideal, there rules in every sex preferably one, while the other is in no way lacking."

Manfred Herzer has suggested in initial overview research that such a view had established itself by around 1800 and at the end of the 19th century represented a common notion in the *Bildungsbürgertum*<sup>5</sup> (see Herzer 1998). With this Herzer contradicted the representation that observations describing human beings as mixtures of female and male parts had only emerged and gained a certain currency around 1900. This understanding was induced by the vehement controversies over the publication of "Sex and Character" ("Geschlecht und Charakter") by the young and also medically trained Viennese philosopher Otto Weininger. In this otherwise deeply anti-Semitic (Weininger was himself a Jew who converted to Protestantism in 1902) and antifeminist essay Weininger had also propounded that every human being represented a mixture of female and male features. There were (also) vehement objections against this view – for instance by the antifeminist Leipzig-based neurologist Julius Möbius, already controversial in his lifetime, and by the women's rights activist Grete Mei-

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**5** | Briefly, a 'Bildungsbürger' was a member of the pre-war bourgeois German elite whose status was marked less by birth than by a solid classical education.

sel-Heß, trained in philosophy, sociology and biology (see Voß 2010: 186, 355 f.). More interesting, however, is that controversies unfolded over who had been the first to advance this theory. Wilhelm Fließ, Otto Weininger, Hermann Swoboda and Sigmund Freud were involved in the controversies over priority. Magnus Hirschfeld also joined the fray, but without claiming priority. But Weininger had already acknowledged the tradition right at the beginning of his observations, thus preempting the senselessness of such a debate over priority:

"The idea of this kind of bisexuality of all living things (as a result of the never perfectly complete sex-related differentiation) is very ancient. Maybe it has not been alien to Chinese myths; in any case it was very much alive in Greece. The personification of the hermaphrodite as a mythological figure testifies to this; as does the account of Aristophanes in Plato's Symposium; indeed, even in later times the gnostic sect of the Ophites considered the primeval human being to be male/female."<sup>6</sup>

### **Chromosomes, hormones, sex/gender**

If the historical observations from developmental biology have shown that these in no way strictly differentiated between female and male sex-related development, but that rather commonality and sameness was central to the debate, then what is irritating today is the self-assuredness with which a strict two-gender difference is presumed, partly with reference to (supposedly) biological findings. Even though in the early 20th century differences in the chromosome sets between female and male individuals were also observed, influential biologists of the time concluded that on the level of the actually developed appearance (in the so-called phenotypical features) an uninterrupted series of transitions between male and female of all sex-related features would show. Chromosomes were first examined in various species of insects, showing that in certain species a chromosome could be lacking in one of the sexes that was present in the other, and that in other species one of the sexes displayed a chromosome that had a different size and structure than in the other sex, and in 1923 corresponding descriptions were carried out for human beings by Theophilus Shickel Painter. He concluded that in human beings all male individuals had each one X and one Y chromosome, and all female individuals had two X chromosomes.<sup>7</sup> These de-

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**6** | Weininger himself had thoroughly revised the 1st edition published in 1903, so that the 2nd edition constituted a changed version. While contemporary critique reacted almost exclusively to the revised version, the reprint from 1980 used the 1st edition making it available to modern research. The textual differences are often not observed. For the textual differences see Hirsch 1994.

**7** | They were termed X and Y at the beginning of the 20th century (1905 and 1910) by Edmund Beecher Wilson and Nettie Maria Stevens.

scriptions however in no way contradicted the assumption of an uninterrupted series of transitions. Richard Goldschmidt described such transitions, based on the assumption that chromosomally there existed two sex variants. He argued that the sex development of an individual depended on the quantitative and temporal distribution of the female and the male factor. These factors were said to be formative substances for the sex, with the gene's effect always ensuing via formative substances which in this case would be hormones.<sup>8</sup> While often one of these sex-related factors predominated permanently in an individual, these could also change. This development would then for instance be marked by the predominant male factor and would then continue in a female direction, because the female factor would then predominate. Goldschmidt described the point of reversal as the turning point. The point when the reversal occurred determined the degree of development of femininity or masculinity in the corresponding individual (see e.g. Goldschmidt 1927: 10-37; Goldschmidt 1931: 1-16). An unambiguous chromosomal attribution was thus compatible with a very variably perceived appearance of phenotypical features in the individuals of one species – and also in human beings.

Already at the beginning of the 20th century also regarding hormones research findings were by no means clear-cut. Rather, experiments showed that it was impossible to separate hormones considered as sex-related according to female or male organisms of origin unambiguously. Bernhard Zondek was one of the important representatives of hormone research. He was able to detect in the urine of the male horse (stallion) a surprising amount of estrogen, a hormone then defined as female. These findings and also others published in the journal "Nature" cast doubt among researchers and fundamentally questioned the unisex effect of hormones (see Oudshoorn 1994: 24 ff.; Sengoopta 2006: 117 ff.; Satzinger 2009: 295, 376 f.).

However, political developments prevented such findings pointing more to complexity and multi-causality from being followed up on both in genetic and in hormone research. Their protagonists Goldschmidt and Zondek were Jewish scientists in the German Reich. Both were forced to emigrate in the 1930s from Nazi Germany and no longer found such favourable conditions for continuing their research (see Satzinger 2009). At the same time other concepts were pursued – simpler concepts of the effect of genes in the US with which Goldschmidt's models competed. The curtailing of research opportunities had a disadvantageous effect on this competition and impeded the reception of Gold-

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**8** | The term 'hormone' was coined in 1905 by Ernest Henry Starling for substances that are transported via the blood from the place of their formation to the place of their effect.

schmidt's ideas also beyond Germany. On the other hand, the Nazis took over the lead in research, also regarding biological sex theories. Thus Adolf Butenandt became director of the Kaiser Wilhelm Institute for Biochemistry in 1936. He was an advocate of a clear distribution of roles between woman and man propagated by the Nazis and also in hormone research represented the theory of the clear sex separation of female and male hormones (see Satzinger 2009). Although his hormone research yielded contradictory results, he did not discuss these and simply excluded them in his publications (Satzinger 2009: 388 f.). Helga Satzinger wrote about his work: "His concept of sex closed itself to scientific counter-arguments which at that time were formulated primarily by Jewish scientists." (Satzinger 2009: 295 f.) Satzinger also emphasized his anti-Semitism; "which was used, whenever convenient, to discredit a scientific opponent" (Satzinger 2009: 296). A letter to his mother from 1930 already reveals Butenandt's anti-Semitic stance with regard to Bernhard Zondek: "The only discordant note was injected by Zondek – a very despicable Jew! – who, with a certain arrogance and in an ironic tone, attempted to denigrate my work and its validity. I gave a retort that made the audience laugh heartily and rendered Mister Zondek subsequently speechless!" (quoted from Satzinger 2009: 293).

Later Butenandt made a career for himself in the Federal Republic of Germany and continued to dominate research, including as president of the Max Planck Society. Helga Satzinger (2009: 399) summarizes the significance of the political events and their effect on scientific knowledge with focus on biological gender theories: "In the preceding years the concept of genes and hormones causing fluctuation between and mixing of the sexes had been widely discussed, and the dominance of the bipolar model did not establish itself until the 1930s owing to the absence of the representatives of the former model, who were forced to emigrate."

### **Current theories of sex/gender determination – including multicausality**

So now the biological sex/gender model that came to establish itself – at first almost unchallenged – was a strictly bipolar one. Here one drew on Painter's descriptions of a homologous chromosome combination of two X chromosomes for the female sex and a heterologous combination of an X and a Y chromosome for the male sex in the human being. The fact that the heterologous chromosome combination showed itself in the male sex, thus that the Y chromosome appeared here as a special factor, led to the assumption that the Y chromosome

represented the deciding factor in the determination of sex. While a female genital tract would form as a general development without the Y chromosome, it was believed that for a male genital tract to form an active developmental step was necessary. This orientation towards chromosomes was connected with the view that testicles were particularly significant for the development of the male sex – and the differentiation of the sexes in general. Since the late 18th century testicles had been in the focus of research as the masculinizing organs par excellence. They were thought to induce the male formation of physical and physiological features, some authors also emphasized their significance for the development of psychological features and (im-)mortal capabilities. Only a little later, since the beginning of the 19th century, did various authors with a similar range also describe ovaries (or female testicles) as important for the forming of the female sex. That the female sex was considered to be temporally delayed was a commonly held view in observations on sex/gender in biological-medical science. One attempted to explain the pre-existing order of the sexes/genders in society – and there the men dominated; it was necessary to find a scientific justification for their dominant position. While there were intense debates about this in the 19th and early 20th centuries, the assumption of a far-reaching and, in contrast to ovaries, exclusive significance of the testicles dominated research since the middle of the 20th century. This was in particular a result of experiments undertaken by Alfred Jost at the end of the 1940s and their reception. He had removed the gonads of rabbit embryos in early stages of embryonic development and subsequently observed a consistently female development, regardless of which chromosome combinations there were. Thus the view established itself that for male development gonads (testicles) were necessary as an active developmental step, whereas female development would merely take its course – passively (for a detailed discussion see Voß 2010: 245 ff.).

Focusing on the X and Y chromosomes in connection with the emphasis on the testicles shaped the research of the following decades in two ways: on the one hand the Y chromosome was now the unique object of focus and identified as the factor that activated the development of the testicles, on the other hand, in the following decades only male development was investigated. This androcentric focus was only tempered in the 1980s by an essay by the geneticists Eva M. Eicher and Linda L. Washburn. They explained simply and convincingly that ovaries too are very complex organs, so that there was no reason to assume that these could simply come about, without an active developmental step (Eicher et al. 1986). Now also female development came to the attention of research.

In 1966 the search on the Y chromosome was narrowed down to the short arm of the Y chromosome. There one searched for the gene that would cause the formation of the testicles, the so-called testis determining factor). Various authors successively proposed different genes. However, their significance as a testis determining factor had to be ruled out repeatedly, because the postulated gene turned out to be either missing in cases where testes had formed nevertheless, or that no testes had formed despite the gene being present, or that it was detected in so many copies in the human being's overall set of chromosomes (or the gene's homologue in the set of chromosomes of mice) that a significance limited only to the formation of testes was unlikely. Finally, in 1990 the gene *Sry* was suggested as the testis determining factor. It is currently still frequently described as the most significant factor of sex determination, even though here too contradictory results soon appeared: in some cases testes developed in its absence and in other cases they did not develop despite *Sry* being present. Also for the female development various genes have been suggested since the late 1980s which were believed to activate the formation of ovaries in the sense of an ovaries determining factor. One of the genes currently being discussed in this respect is *Dax1* that can be located regularly on the X chromosome (dosage-sensitive sex reversal, adrenal hypoplasia congenital, critical region on the X chromosome). But here, too, contradictory findings quickly appeared (for a detailed discussion see: Voß 2010: 245 ff.).

In recent decades the contradictions that showed up in the findings have resulted in simple models of gene effects being increasingly discarded also in biological research on sex/gender determination. While for a long time the understanding predominated that one single gene was responsible for the formation of a complex organ structure – like the ovaries and testes – today one tends to favour the view that a network of various genes and other factors are necessary for the formation of testes or ovaries. Meanwhile around 1.000 genes are described as expressed in the corresponding phases of embryonic development. For around 80 of these there is at least some degree of, by no means consistent, evidence.

At this point already one basic element of multicausality becomes clear: many genes and their products interact in networks. They are expressed in differing degrees in terms of time and space. And the expression in no way differs according to sex – the popularly held belief that in one sex a gene is expressed and in the other not is wrong. Rather, all genes both in the individuals regarded as female and those regarded as male are, as a rule, expressed. Differences can only be detected in the quantity and the temporality of expression – and these

differences are in no way to be understood as sex-related. The differences are as a rule significantly greater within one group – for instance between the single individuals in the male group – than the differences that can be measured between the groups of female and male individuals. This is an indication that individuality has been a significant, long neglected factor. Thus, in every individual manifold genes, their products and additional factors interact in specific ways in quantitative and temporal terms. Even when a gene which is present in other individuals is absent, structures similar to the other individuals can come about by the gene's effect being substituted by other genes. But this can also explain the individual differences of appearance between human beings – they could be adduced to individual differences of expression. A final observation should suffice on the genetic level: just as we meanwhile know that the XX chromosome combination and the XY chromosome combination are by no means the only existing possibilities of combining the sex-related chromosomes X and Y, but that also the combinations Xo, XXY, XXXY etc. occur, and that a set of chromosomes regarded as typically female can combine with an appearance (so-called XX men) regarded as typically male, and a set of chromosomes regarded as typically male can combine with an appearance (so-called XY women) regarded as typically female, so we should fundamentally question the labeling of X and Y as sex-related chromosomes and their differentiation from the other chromosomes. For most of the 1.000 genes that are described as being possibly involved in the formation of the genital tract, do regularly precisely not appear on the chromosomes X or Y, but on the others, the autosomes. In fact only very few of these genes are regularly localized on the X or Y chromosomes, so that already labeling these chromosomes as sex-related chromosomes is misleading (for a detailed discussion see Voß 2010: 283 ff.).

It has become clear so far that with the new findings we arrive also in terms of chromosomes and genes at complex and individual possibilities for the formation of sex. But with that we still remain on this chromosomal and genetic level, a two-dimensional level, according to which, as repeatedly explained, the genes would already contain all information necessary for the formation of an organism. But an approach that accords chromosomes and genes the crucial role, that decouples them from the cells, the organism and surrounding factors, or only describes these factors merely as subordinate auxiliaries – as slaves of the genes – constitutes a too simple and meanwhile already disproven view. It would be comparable to the preformationist theories of the ovists and animalculists and the pangensis theory – development would be pure



development of already existing information, processuality would be ignored, influences of surrounding factors would remain excluded. As described above there were, on the one hand, political and societal reasons for the focus on genes, to the detriment of cellular and organismic factors, on the other hand, the decryption of the structure of the genetic material DNA (deoxyribonucleic acid) by James D. Watson and Francis Crick in the 1950s, based in particular on the findings of the X-ray analyses performed by Rosalind Franklin, led to the assumption that with DNA one had now found the key to life. Funding programs conducted subsequently favoured gene research, while research focusing on further cellular and organismic factors became marginal and had to make do with relatively little funding.<sup>9</sup>

Meanwhile there is a rethinking process underway. It is assumed now that genes and their products operate in networks. At the same time, the results of the human genome project aimed at determining the base sequence of the entire human chromosome set were somewhat sobering: The number of genes in humans is probably not significantly higher than that of the unremarkable barely 1mm long nematode *Caenorhabditis elegans*. Thus other factors have moved more into the foreground – factors of the cell which make it possible in the first place that a concrete product is created from a DNA sequence (from a gene) which can then take effect in the cell. Observations on this subject are also by no means new – every student of biology and biochemistry gets to learn something about processes such as transcription, transcriptional modification, transport mechanisms, translation, and translational modifications. However these subjects are rarely followed up on their implications: If this processuality and its multi-phased cellular regulation is taken seriously then the significance of DNA, of the genes becomes a relative one. Apparently complex cellular regulation is required for the approx. 2% coding regions – i.e. which represent something like genes to be selected from the DNA sequence. On the way from the gene (of the DNA sequence) to the product actually effective in the cell, sequence changes occur directly, with various chemical molecules being taken up and the spatial structure of the forming molecule produced and actively regulated. It is only in this way that the product is formed which then takes specific effect in the cell (for a detailed discussion see: Voß 2010: 283 ff.).

DNA does thus not merely constitute a piece of information that only needs to be read. Rather, it is only in embryonic development that a specific unit of information is produced through cellular processes, embedded in the entire organism and dependent on parental influences and those of the wider environ-

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<sup>9</sup> | See for instance the epigenetic research by Conrad Hall Waddington which was successful, but did not receive the same attention as the findings of genetics (Slack 2002, Speybroeck 2002: 61 ff.).

ment, using a DNA sequence. Which DNA sequence is expressed and which product is formed from it depends on cellular processes – in which numerous factors are involved that are regulated in a complex way – and is sensitive to surrounding influences for instance from the parental organism and the wider environment.

This contribution has made clear that sex development – the focus was on sex determination – proceeds in a variable way. Numerous factors are involved, it ensues processually and the result is at no point predetermined. The popular belief that as a result of sex development only the two forms of the genital tract result in male or female is, after an analysis of current biological and medical research, no longer tenable.

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# Cuba: A Revolution of Sexualities, Sexes/Genders and Bodies<sup>1</sup>

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*Mariela Castro Espín*

## SUMMARY

The following contribution focuses on Cuba's sex/gender policy as it has been reflected in the project 'Centro nacional de educación sexual', CENESEX for short, since 1989. It reveals how transsexuals in Cuba have been able to change their name, how the project CENESEX helped to depathologize transsexual persons, and which perspectives approaches such as these can provide.

## INTRODUCTION

When I first met J.R. he complained of being a man trapped in a woman's body. He suffered familial and social conflicts that resulted from the continuous contradiction between his female biological sex and his male sex/gender identity. After having worked for 40 years in the metal industry he is now retired. His older brother describes how from a very early age he strove for as masculine an appearance as possible, something frequently reported in the stories of Cuban transsexual persons. In 1972, at the age of 23, J.R. was recognized by CENESEX as transsexual. This enabled him to change the picture and the name on his identity card. He was the first Cuban to receive institutional help in the legal recognition of his male identity. The changes in his identity card greatly facilitated his social integration. In those days, sex/gender reassignment surgeries were not yet performed in Cuba. His employer provided a number of testimonies emphasizing his human qualities and his excellent professional performance. This was also very helpful in the following steps that we took together with him. In a letter to the Ministry of Health from 1983 he wrote:

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<sup>1</sup> | Original version in Spanish.

"You cannot imagine how much I am suffering. [...] Cuba helps other people in other countries, so why don't I get any help, although I'm Cuban? My problem is not the result of a whim, it is a humanitarian question. Because I can only feel like I am a fully valid human being if I get surgery."

He wanted to undergo surgery at all costs. I quote from the same letter: "[...] even if I'm already old and lose my life in the process." He said he would be prepared to sign the necessary documents in order to be buried as a man in case he should not survive the operation.

Similar to other transsexual persons, J.R. expresses the great suffering and discomfort that was caused by his body's nonconformity and that drove him to turn to the health authorities. We do not make diagnoses as we do not regard transsexuality as pathological. As a government institution we support these people, discuss their situation with them and offer them guidance tailored to their needs. Since the victory of the Revolution in 1959 the state and the government have shown the political will to address different forms of discrimination as they were detected in specific moments of history.

### **Development of the project CENESEX**

The issues of trans- and homophobia have been on the agenda since around the turn of the millennium. Before that time, they had often not been noticed as forms of discrimination. Since the introduction of the public health system in 1979 the National Workgroup for Sexual Education, with its specialized medical and psychological assistance, has been a governmental contact point for trans persons. In 1989 this unit was affiliated as 'National Center for sex education' (CENESEX) to the Ministry of Health. Before this it was part of the 'Federation of Cuban Women', an important NGO. When the issue of sex/gender education was included in the political agenda, the center joined the Ministry of Health in order to be able to budget the political activities in the field of sex/gender education. The efforts undertaken by this women's organization and the National Center for Sex Education in providing practical assistance to transsexual persons enabled CENESEX to redirect its approach in order to better meet the needs of transsexual people, and made it clear that it was necessary to overcome the internationally prevailing biomedical model and develop a social and legally anchored perspective on transsexuality. This called for a paradigm shift with respect to our understanding of transsexual persons as pathologized and manipulated human beings, as well as a focus on social problems and in particular on the power relationships that deprive transsexual persons of their rights.

Against this background, today's situation of transsexual persons in Cuban society, their social integration and the possibility of full exercise of their rights is no longer only a personal, familial and medical issue, but requires a public response in the form of a specific social policy. In 2004, in accordance with the accepted criteria of scientific discourse, we renamed ourselves 'National Commission for the Treatment of Persons with a Gender Identity Disorder'.

We are however aware that psychiatry continues to regard transsexuality as a disorder of gender identity.

After thoroughly concerning ourselves with transsexuality as a social reality in Cuba and other countries, we were however able to confirm that transsexual people demand to be regarded as healthy men and women and as fully valid social actors. They do not accept being treated as patients, let alone as a threat to public order. For this reason we changed our name to 'National Commission for the Comprehensive Assistance of Transsexual Persons' in 2005. One of the main reasons for this decision was a meeting I organized of more than 40 transsexual persons and transvestites, who had requested the support of CENESEX for the approval of a surgical sex/gender reassignment and the legal recognition of their sex/gender identity, in order to put an end to the inappropriate treatment by the police in certain public places. At this meeting we suggested educating them as sex advisers as well as cooperating in the framework of the national program for the control and prevention of sexually transmitted diseases such as HIV (Human Immunodeficiency Virus) and AIDS (Acquired Immune Deficiency Syndrome). The aim was to strengthen their role as social actors in the prevention of the AIDS epidemic as persons who do not only have access to certain benefits but who contribute to the effort themselves. Later they were also offered a training for the promotion of the sexual rights laid down by the 'World Association For Sexual Health' (WAS). Thanks to these trainings, the transsexual persons participated in the implementation of a political strategy against the socio-cultural climate of ignorance and discrimination which led to transphobia and thus to the discomfort of these people. This is also how 'TransCuba' was created, a project carried out by activists engaged in the field of sexual health who have been enriching our work with very valuable ideas. With their active participation transsexual persons are making an important contribution to political change with respect to these issues. Cuban specialists had already successfully performed a first sex/gender reassignment surgery on a female transsexual person in 1988. This operation was presented and discussed at a scientific conference, but the news was published by a paper whose coverage was inappropriate. This provoked protest letters from the public and the Ministry of Health retracted

its approval to perform further operations. 20 years passed before Cuba's trans population was once more able to make use of this service. Due to resistance from Cuban institutions against a legal recognition of the sex/gender identity of transsexual persons it was only in 1997 that a few agreements could be concluded with the Ministries of the Interior and Justice. These agreements finally enabled 13 transsexual persons, whose applications had been submitted a long time before, to change their names and photos in their identity documents. However, this did not involve a complete modification of official documents. The entries in the civil register remained unchanged, because the laws were (and are) always interpreted in the sense that the morphology of the genitals determines the legal sex/gender. For this reason a change of the name and sex/gender entries in the civil register is only possible if a sex/gender reassignment surgery has also been performed.

### **Current situation in Cuba and Implementation of the Project Aims**

- Later, in the course of a restructuring, CENESEX expanded the composition of its interdisciplinary team for the support of trans persons. This also included changes regarding its function as well as the development of a national strategy for comprehensive support which now is no longer limited to medical aspects. This strategy was presented to the Federation of Cuban Women, the Central Committee of the Communist Party of Cuba and various parliamentary commissions in order to hear their assessment and gain their support for a corresponding bill. It comprised the following goals:
- Development of guidelines for the comprehensive medical support of transsexual persons corresponding to international standards and the characteristics of Cuba's health system. Since all health services in Cuba are free of charge, this point was criticized by some people who consider medical support of transsexual persons a luxury and not a medical necessity and therefore demand a cost sharing. The Cuban government however reminded them that cost-free access to medical services is a human right and will remain so in the future, and that the surgeries to be performed every year will be financed by the state budget. To gain access to the health system we do not have to declare ourselves ill. Accordingly, we also do not declare transsexual persons as sick or mentally challenged. They merely suffer from a discomfort and receive the services detailed in the guidelines.
- Promotion of interdisciplinary research on the subject of transsexuality.
- Development of education and publicity campaigns for the promotion of



understanding and respect for transsexual persons on the part of the community and society.

- Implementation of educational programs that sensitize for the realities of transsexual persons and the necessity for their social integration.
- Promotion of legal mechanisms for regulating comprehensive social support of transsexual persons in Cuba.
- Introduction of educational programs for the support of transsexual persons and their relatives. As will have become clear here we regard education as a crucial tool for transforming ways of thinking and culture of contemporary Cuban society, a tool in the struggle against discrimination and for the strengthening of solidarity as well as for the respect of trans persons' dignity and rights.

Most successes of this strategy concern the Ministry of Health. In June 2008 an agreement was passed comprising the medical support of transsexual persons, the responsibilities of this commission and the creation of a center for comprehensive support.

On the basis of the first goal suggested by us, the Centre for the Comprehensive Support of Trans Persons and their Relatives was established, the facilities of which are located in the National Centre for Sexual Education, which is headed by myself. The standards applied here are based on the informed consent given by the person after receiving comprehensive information about hormonal and operative procedures.

In addition, we have developed treatment standards for surgical sex/gender reassignment with the support of experts from the University of Gent, Belgium. This service is covered by the national health system. Since 1979, a total of 210 persons have applied for treatment by specialists. Of these 210 persons, 37 were recognized as transsexual – recognized, not diagnosed – and on fifteen of them sex/gender reassignment surgery was performed in collaboration with doctors of the university of Gent.

In 2011, J.R., the person I mentioned at the beginning, was able to undergo sex/gender reassignment surgery. According to his own account he is now living as a very happy man.

Regarding the second goal formulated by us, several standards and research projects were created during the realization of this strategy, for instance an evaluation of the strategy for a comprehensive support of transsexual persons as a sociopolitical program in Cuba, studies on the societal representations of sexu-

ality, carried out by a group of trans persons from the capital Havana, as well as a smaller study on family and transsexuality in Cuba. Work with the relatives was very intense and very important, particularly for the support of transsexual persons during and after surgery. There were also smaller studies conducted on non-normative sexuality and violence as well as transsexuality and employment, etc. These studies are published in the scientific journal *Sexología y Sociedad* as well as on the homepage of CENESEX.

In order to approach the third goal formulated by us, CENESEX has been organizing the International Day against Homophobia and Transphobia (IDAHO) on the 17th of May of every year since 2007. Since 2008 we have also been working on a national education strategy for the promotion of respect of the right to free sexual orientation and sex/gender identity as a training for social justice and equality – with active participation of LGBT activists as well as intersex and heterosexual persons. Thus the Cuban LGBTIH<sup>2</sup>-movement was established under the leadership of CENESEX. Besides IDAHO numerous other events are also organized. In June we are always very exhausted from all the work!

In addition, the trans activists contribute their voices and experiences in expert discussions in which the strategy is presented. Here they become present and engage in a dialogue with society. We train them in methods of participatory education so that they may share the knowledge of their experiences in the debates and help to constructively shape the discussions. They attended, for instance, the last three Cuban conferences on education, orientation and sexual therapy, various discussion meetings in the framework of the Latin American film festival 'Cine Pobre', the Outgames of Montreal, Denmark and Belgium, conferences on HIV prevention (as AIDS activists) etc. They also participated very actively in organizing the various celebrations taking place nationwide for the International Day against Homophobia and Transphobia.

Regarding the fourth goal we organized numerous courses, seminars and workshops for sensitizing the staff of the Ministries of Health, the Interior and Justice, the High Court, the Attorney-General, the police schools and the school for training cadres of the Communist Party, the universities for medicine and educational sciences as well as the Latin American School of Medicine (ELAM). In Havana we developed courses for further education for journalists and correspondents, artists, writers, script writers for radio and television, directors of feature films and animated films and employees in other audiovisual media. Thanks to these efforts we now have the wide support of social actors across the entire Cuban population.

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2 | H for heterosexual persons.

Regarding the fifth goal two bills were drafted that are still awaiting a political decision. One is a legislative decree on sex/gender identity that comprises all aspects which are regarded as fundamentally necessary for the respect of the dignity of transsexual persons. This decree refers to the possibility to make a change in the civil register without performing sex/gender reassignment surgery, since not all persons desiring a change in the civil register wish to or are able to undergo surgery. We are still waiting for a decision by the legislator on this decree. A second proposal aims at the revision of family law. Making use of its legal power anchored in the Cuban constitution, the Federation of Cuban Women has in the past 20 years spearheaded a process of revising and redrafting of family law which was promulgated in 1975 by popular vote. Because of the importance of this revision for the full exercise of our civil rights regarding our protection and well-being as well as on the basis of general human rights and our social responsibility, we advocate the adoption of a new article concerning the rights of sex/gender identity and sexual orientation. An inclusion of the core aspects of this new strategy in a legal structure such as family law permits the acknowledgement that it is within our family that we all make our first experiences of learning and socialization which fundamentally shape us for the rest of our lives. Thus it can be acknowledged that it is the responsibility of the family as an institution to protect all its members without any form of discrimination.

## PERSPECTIVES

At the suggestion of the National Commission for the Comprehensive Support of Transsexual Persons, the CENESEX and the sexological scientific community, Cuba has joined the worldwide campaign for the depathologization of transsexuality in 2010 with a declaration of intent that embraced our arguments published on our homepage.

At the conference of the Communist Party of Cuba held in January 2012, a guideline for combatting every form of discrimination was adopted, which for the first time in our history also included sexual orientation and sex/gender identity. While this guideline was included in the political agenda of the Communist Party, we are at the moment still working on its actual implementation. The mere fact that this aspect is now on the political agenda is not sufficient.

To conclude I would like to emphasize that due to the special social significance and the high humanistic content of this strategy, we demand that it become an

integral part of social policy and is also reflected in the national legislation. I refer to José Martí who observed: “Justice does not bear delay. Whoever defers its execution directs it against themselves.”<sup>3</sup>

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**3** | Cuban thinker, publicist, philosopher and poet of Spanish descent, symbol of the Cuban independence movement. URL: <http://akifrases.com/frase/190649> [26.11.2013].





## **CHAPTER 4: SEX/ GENDER NORMATIVITY AND TRANSIDENTITY**





# Trans-Children<sup>1</sup>: Between Normative Power and Self-Determination<sup>2</sup>

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*Erik Schneider*

## SUMMARY

People who do not conform to sex and/or gender norms often encounter reactions of shock and/or bewilderment. Not conforming to dominant representations of sex and gender through the mere act of being one's self seems to provoke defensive reactions, including rejection, shaming, and even physical violence, in others – reactions that are rooted in the aggressor's fears and/or insecurity about their own sex/gender. This type of reaction indicates that firmly entrenched sex/gender norms continue to prevail in society. In the medical profession, which has wide-reaching normative power, not meeting certain normative sex/gender-related representations has been declared pathological. This process of pathologizing an individual includes a number of different treatments, which are currently the subject of controversial debate throughout the medical profession as a whole and within its individual disciplines. The people actually affected by such pathologizing are often excluded. Their perspectives and voices, particularly those of children, receive scant, if any, notice.

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**1** | Children whose sex and gender (German: Geschlecht; French: sexe/genre) assigned at birth deviates from their sex/gender related self-perception (in German: geschlechtliche Eigenwahrnehmung; in French: auto-perception sexuée/genrée) and sex/gender-related self-determination (in German: geschlechtliche Selbstbestimmung; in French: auto-détermination sexuée/genrée), their sex/gender identity (in German: Geschlechtsidentität; in French: identité sexuée/genrée) and/or their sex/gender expression. The author wishes to point out that in French (unlike in German and English) the term 'identité sexuée' comprises a further distinction which suggests a bodily dimension of identity. Here, it should be noted that the author uses the term 'trans children', because it encompasses the widest possible spectrum of possibilities. The use of this term does not preclude how the children themselves want to be addressed, because only they can give a reliable answer to whether and with which term they feel themselves best described.

**2** | Original version in German.

## THE EXPERIENCE OF TRANS CHILDREN IN THE HEALTH CARE SYSTEM – AN EXCERPT

Children who defy the sex/gender-related representations of Western cultures and instead seek acknowledgement by their parents and the wider environment of their sex/gender-related self-positioning<sup>3,4</sup> are often confronted with a number of problems: Lack of knowledge and the confidence to support these children (RADELUX II 2012: 15, 17, 23), particularly on the part of professionals and parents, negative reactions of adults whose sex/gender binary-based expectations have been destabilized (Voß<sup>5</sup>), pathologization<sup>6</sup> of people whose sex/gender identity<sup>7</sup> deviates from cultural norms (Schneider 2014), conflation with intersexuality<sup>8</sup> (Baltes-Löhr;<sup>9</sup> Groneberg<sup>10</sup>) and sexual orientation,<sup>11</sup> more precisely, homosexuality (Drescher/Cohen-Kettenis/Winter 2012: 568). In an example of the kind of experience reported by parents, the mother of a 16-year-old trans daughter with Trans-Kinder-Netz e.V. (TRAKINE), a German association organized by and for the parents and significant others of trans children, shared the following:

“My first step was to ring the [University Hospital Muenster’s Clinic for Child and Adolescent Psychiatry, author’s note]. I gave them the background info – that gender identity disorder may be the issue – and asked whether they had experience in this area. This question was answered unreservedly in the affirmative and I then made an appointment. [...] But once there [my child and I, author’s note] were disappointed – the psychologist told us that she had not dealt with such a case previously. After talking with my child, the psychologist told me that my teenager had serious depression and also suicidal thoughts [...]. Panicking that he could actually harm himself, I then also contacted the LWL University Child and Adolescent Psychiatry Clinic in Hamm. He was then treated on a weekly basis as an outpatient for depression. They couldn’t help us with the other issue.”<sup>12</sup>

**3** | In French: l’auto-positionnement sexuelle/genrée; in German: geschlechtliche Selbstverortung.

**4** | The author uses this term to denote sex/gender-related self-determination (German: geschlechtliche Selbstbestimmung; French: auto-détermination sexuelle). It includes the physically sexed self-perception (German: geschlechtliche Selbstwahrnehmung; French: auto-perception sexuelle).

**5** | See chapter by Heinz-Jürgen Voß in this volume.

**6** | Mechanism by which people whose physical, mental and/or social characteristics do not correspond to any norms are considered and declared sick by physicians.

**7** | Yogyakarta-Principles (2006): Definition of gender identity: “[...] each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth”, p. 6.

**8** | Biological specificities in the differentiation of sex, in which people with intersex bodies in different ways exhibit deviations from the standard sexes, whether female or male. See description of the German Federal Association of Intersexual People; URL: <http://www.intersexuelle-menschen.net/intersexualitaet/> [31.12.2013].

**9** | See Christel Baltes-Löhr’s chapter: ‘Always gender – always different’.

**10** | See chapter by Michael Groneberg.

**11** | Yogyakarta-Principles (2006): Definition of sexual orientation: “[...] each person’s capacity for profound emotional, ability to be affectionate with [in place of affectional in the original text, author’s note] and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.”, p. 6.

**12** | TRAKINE: Report. URL: [http://www.trans-kinder-netz.de/pdf/Mutter\\_eines\\_16\\_jaehrigen\\_Transmaedchens.pdf](http://www.trans-kinder-netz.de/pdf/Mutter_eines_16_jaehrigen_Transmaedchens.pdf) [16.08.2013].183 (in German).

Some families assume a high burden to find appropriate medical treatment for their child, as the following report shows:

“We have to travel from Bodensee [Lake Constance in southern Germany, author’s note] to the university clinic in Hamburg, which of course takes a great toll, both physically and financially. Specialists who believe that development should progress naturally, and who don’t try to cure something that can’t be cured, still aren’t available in our area. This type of approach, which we consider appropriate for our child, is only available in Hamburg.”<sup>13</sup>

Staff changes can also lead to the threat of halting already commenced hormone treatment to delay puberty, and this can pose another stress:

“The hormone blockers [puberty-delaying hormones, author’s note] gave him a stability that allowed him to consider starting anew in a different school, where no one knew him. Consequently, his social anxiety decreased significantly. When the endocrinologist rang us to say that they intended stopping our child’s treatment, our son was devastated, because without the blockers a new start was impossible. The nightmare scenario of having to go through female puberty, which could have negatively affected his future physical development as an adult man, was a setback that saw him unable to imagine being accepted at the new school suggested to him. He felt like his difference would once again single him out and he would be in the same boat as at the current school, which he had attended since childhood, and where he felt victimized.”<sup>14</sup>

These anecdotes, along with many other reports and life experiences, demonstrate the need for a different approach by the medical profession to trans children and their families. Medical intervention has to prioritize the needs of these children and their families. The social mandate of the health care system should be to improve their quality of life. Examination of how sex/gender is understood within medicine can give some clues as to how this can be achieved.

### **The medical perspective on sex/gender**

That human sex and gender is constituted as a binary seems to be an unshakable tenet of the medical profession, despite the fact that it is neither demonstrated by scientific evidence, nor borne out by closer observation of individuals (Voß<sup>15</sup>). Sex as well as gender cannot be subdivided into just two variations that can be considered strictly independent of each other on the level of biology, psychology

**13** | Trakine: Report. URL: [http://www.trans-kinder-netz.de/pdf/Lenas\\_Mutter.pdf](http://www.trans-kinder-netz.de/pdf/Lenas_Mutter.pdf) [14.02.2014].

**14** | Intersex & Transgender Luxembourg a.s.b.l. (previously Transgender Luxembourg, 2012): Field report.

**15** | See chapter by Heinz-Jürgen Voß in this volume.

or sociology. Instead, humans tend to traverse the range between the two ends of the spectrum on all three levels. Despite this diversity, in most societies, a child is assigned to either the group girl or boy at birth according to their genitalia. Anyone whose characteristics defy the assumed unambiguousness is in danger of being declared sick and made unambiguous by physicians – who claim for themselves the definitional sovereignty for the terms ‘disease’ and ‘need for treatment’. (Fausto-Sterling 1993: 23; Woweries<sup>16</sup>).

How a person will come to position themselves in terms of sex/gender – i.e. which sex and/or gender, if any, an individual considers themselves as belonging to or identifies with or which sex/gender identity they develop – cannot be predicted at birth. Not only the experiences of trans children, but of intersex children as well, testify to this (see Woweries<sup>17</sup>). Cultural sex/gender related representations vary and a number of more or less prescribed possibilities for sex/gender transition (physical and social/in terms of an individual’s relationship to themselves and/or their relationship to their surroundings) are known (see Baltes-Löhr<sup>18</sup>). Not all cultures fall back on the concept of sex/gender binarism and the mechanism of pathologization to rationalize the existence of people with characteristics that fall outside of the sex/gender binary and to “rescue” the latter (see Rauchfleisch 2012: 187; Schneider 2014). According to Langer/Martin (2004: 4), scientifically validated criteria for distinguishing between normal and pathological sex/gender identity or gender behaviour do not exist. Existing scientific data do not suffice to empirically answer whether a diagnosis of pathological sex/gender identity disorder can be attributed to a psychological disorder, a physical disorder of some other genesis, or is in fact even a disorder at all (Cohen-Kettenis/Drescher/Winter 2012: 573). Additionally, the categorization of transsexualism as a psychological disorder is increasingly being questioned (Alessandrin 2013: 57; Becker 2012: 26; Rauchfleisch 2012: 23).

The need to stop considering transsexuality as a pathology (see Sigusch 2011: 286) and especially as a psychiatric disease (Becker 2012: 26-27) is to some extent recognized in psychiatry and across medical disciplines. The solutions proposed in this context continue to emphasize the importance of making a hormonal treatment and surgical reassignment available as part of the health insurance system (Becker 2012: 27; Cohen-Kettenis/Drescher/Winter: 573; Rauchfleisch 2012: 35). Notwithstanding these advances, steps backward can also be observed, for instance the fact that psychiatry has for the first time become anchored in the discussion around reimbursement. In some circles the role of

16 | See chapter by Jörg Woweries. ‘Who has a disorder? Who gets to decide?’

17 | See chapter by Jörg Woweries: ‘Intersex – medical measures on the test bed’.

18 | See chapter by Christel Baltes-Löhr: ‘Always gender – always different’.

psychiatry is actually being given new emphasis in terms of approving health insurance coverage for sex/gender transition measures. For example, a ministerial decree<sup>19</sup> passed in January 2014 introduced a diagnosis of “syndrome of gender dysphoria”, which cannot be scientifically proven, and at least one year of “psychiatric treatment” as prerequisites for health insurance coverage of medical treatment. These and other inappropriate prerequisites are making<sup>20</sup> transition more difficult, particularly for minors, and could lead to human rights violations and contravention of the rights of children.

Another aspect of the medical discourse is its difficulty in distinguishing between sex/gender identity and sexual orientation. Although not the subject of scientific study to date, empirical data<sup>21</sup> gathered via observations in our self-support group show that many trans people of all ages consider and experience their sex/gender identity as separate from their sexual orientation. Despite this, health care professionals pose the question of sexual orientation almost as a matter of course. One reason for this is the prevailing assumption that trans people do not accept their own homosexual orientation and repress it (Korte 2008; Rauchfleisch 2012: 22). Becker (2012: 30) writes of seamless transitions between homosexuality and transsexuality. The extent to which sexual orientation is problematized by professionals (Becker/Möller/Schweizer 2013: 267 ff.) and researchers (Hill et al. 2007: 68), despite the minimal role it plays in the issues faced by many trans people, is astounding. It stands in stark contrast to the lack of reliable data on the sexual orientation, sex/gender identity, and the relationship between these two factors for the population as a whole, which is assumed to be heterosexual and cis-identified.<sup>22</sup>

The paradigm of the sex/gender binary includes the paradigm heteronormativity, according to which individuals are heterosexual by default. Following on from this is the assumption that a trans person simply wants to transition in order to live as a heterosexual. Such hypotheses exclude people who pursue homosexual or bisexual relationships after transition (Rauchfleisch 2012: 66), and those who identify as asexual or pansexual,<sup>23</sup> but who did not identify as heterosexual prior to transition.

Moreover, the diverse terms and definitions along with their inconsistent use and the varying manifold translation between languages, is only given cursory mention. Understanding and definition of terms such as transsexualism,

**19** | Mémorial. Official gazette of the Grand Duchy of Luxembourg. A - N° 232, 30.12.2013. Caisse nationale de santé - Statuts. Annex: “Modifications des statuts de la Caisse nationale de santé Comité directeur du 11 décembre 2013”, Point f; page 4301. “Chirurgie plastique à visée esthétique et dysphorie de genre”, 1° g) f. URL: <http://www.legilux.public.lu/leg/a/archives/2013/0232/a232.pdf> [06.01.2013].

**20** | Transitioning to another gender role, which can also lie outside of the sex/gender binary.

**21** | Author's observation (2009-2012) in the self-support group of Transgender Luxembourg.

**22** | Congruence of the sex/gender assigned at birth that matches the sex/gender-related self-determination.

transsexuality, sex/gender variance and sexual identity vary (see Schneider 2014). This complexity contributes to a social definition of sex/gender that is culturally circumscribed at a number of levels and the frequent interchanging of sex/gender with sexual orientation, which causes additional confusion and frequently feeds into a lack of or mistaken understanding of trans people.

### **Experiences of parents contacting health-care professionals**

Some children realize at a very early age that the sex/gender assigned to them at birth does not match their sex/gender-related self-perception. In some cases, these children communicate this self-awareness to their parents. For example, this conversation between a mother and her 5-year-old child: “Why didn’t you give me a girl’s name when I was born?” The mother answered: “Because you were born with a willie.” To which the child replied: “Yes, but inside I’m a girl, in my heart and in my head. Even when I was first born I already had a girl’s heart, I just wasn’t able to tell you.”<sup>24</sup> Thinking that they are being understanding, parents often assume their child is going through a phase. For example, the parents of a child assigned as boy at birth, might indulge their child’s wish to wear a dress at home, but insist on trousers when going out, because they assume their child is a boy. Parental fear that their child will be excluded, bullied or physically harmed is another key reason for why they do not want their child leaving the house like that. Other parents admonish or sanction their child or administer corporal punishment in the name of child rearing, hoping that this will make their child begin behaving normally again (Brill/Pepper 2011: 88/89; RADELUX II 2012: 13). Some teenagers report that their parents label their wish to change the gender role as a fad, with the unstated reproach that “following every fad that comes along is unnecessary.”<sup>25</sup> If this phase goes on too long and/or becomes too intense, parents frequently start to worry, especially if they start comparing their child to other children of the same age. The suspicion that a child does not conform to their assigned sex/gender can often throw a family in disarray. Some seek out medical help or therapy to find out what has happened to their child and how the child can become normal again. Very few parents at this stage already recognize that their child is not sick, but is simply not conforming to society’s sex/gender norms. Pressure from the family’s environment, childcare workers, teachers or school authorities can also lead parents to impose corrective mea-

**23** | Ability of a person to feel intensely emotionally and sexually drawn to a person independently of sex and/or gender, and to enter trusting and sexual relationships with these. This includes individuals outside of the sex/gender binary (see Nieder 2013).

**24** | TRAKINE: Report. URL: [http://www.trans-kinder-netz.de/pdf/Mutter\\_von\\_Lisa.pdf](http://www.trans-kinder-netz.de/pdf/Mutter_von_Lisa.pdf) [07.01.2014].

**25** | Intersex & Transgender Luxembourg a.s.b.l. (2013): Field report.

asures, punishments, or, at the very least, to ignore the so-called non-conforming behaviour. Parents become alarmed and seek help particularly when psychological problems appear, such as difficulties in social interaction, eating disorders, self-harm (Carmichael/Parkinson/Skagerberg 2013), depression or suicidal tendencies (HES/MAG 2009), including in early childhood (Lüthi/Fuchs 2013), which often arise when the child attempts to repress their sex/gender-related self-perception and/or experiences of social rejection, punishment and corrective measures (Ehrensaft 2012; D'Augelli/Grossmann 2007; McBride 2013: 52; RADELUX II 2012: 15). For example, this mother's experience:

"One night Karl tried to cut-off his willy under the shower with a plastic knife from the general store." Karl: "Then I'll grow a vagina. There really is a fairy that can cast a spell to turn me into a real girl. I want long hair and a vagina, and then I'll always wear proper girls' clothes [...] I get sad when I see my willy. I don't want it, when will it be gone?"<sup>26</sup>

Moreover, society usually puts parents under a great deal of pressure to normalize the child, which generally puts the relationship between parent and child under extreme pressure (Hill/Menvielle 2009: 255-256). Physicians and psychologists often seem ill-equipped for the needs and problems of trans children. For example, parents have reported poor understanding on the part of physicians, some of who have been known to suggest the parents are responsible for their child's possible trans identity (McBride 2013: 57; Hill/Menvielle 2009; Schneider 2013). Examples include the following reactions and statements: "He [The physician, author's note] phoned and accused me of rearing the child into schizophrenia, of being a great danger to the child, and that child welfare services should be informed."; "I've never heard of anything like this."; "This type of thing doesn't exist!"; "The child needs a good clip around the ear!". One child and adolescent therapist said: "It's just a phase. And don't forget your child is from a broken home!"<sup>27</sup> If divorce actually does play a causal role in possible trans identity, one would expect a significantly higher number of trans people in the general population. Countries with a higher divorce rate like Luxembourg<sup>28</sup> would therefore have more trans children than countries with lower divorce rates.

**26** | TRAKINE (2012): Report by a 6-year-old trans girl. URL: [http://www.trans-kinder-netz.de/pdf/Mutter\\_von\\_Lisa.pdf](http://www.trans-kinder-netz.de/pdf/Mutter_von_Lisa.pdf) [27.12.2013].

**27** | TRAKINE presentation at a public information event on transsexuality, 04.12.2013, in Magdeburg, Germany. URL: <https://www.facebook.com/events/669464496419434/> [05.01.2014].

**28** | The divorce rate in Luxembourg in 2010 was by 60%. URL: [https://www.allianz.at/v\\_1353506042000/privatkunden/media-newsroom/news/aktuelle-news/pa-download/20120213\\_chart\\_eu\\_vergleich.pdf](https://www.allianz.at/v_1353506042000/privatkunden/media-newsroom/news/aktuelle-news/pa-download/20120213_chart_eu_vergleich.pdf) [17.08.2015].

## The phases of professional supervision of trans children and trans adolescents

The points at which families generally seek professional help from the health care system can be categorized in three specific phases of a minor's life:

- Support in deciding whether a child should socially transition during childhood, including at (pre-)school and in the wider community.
- Prior to the start of treatment with Gonadotropin releasing hormone agonists (GnRh agonists) to delay puberty (Wüsthof<sup>29</sup>).
- Prior to irreversible medical intervention for adolescents and adults (so-called cross-sex hormone therapy and surgical reassignment).

Time and again health care professionals are required to decide whether and how to lend support to a family.

## Medical approaches

The demand for hormone treatment and surgical reassignment increased in the 1950s, when public personalities like Christine Jorgensen<sup>30</sup> (1952), Coccinelle and Bambi<sup>31</sup> (1958-1960) publicized their transitions by means of medical intervention in the media. In the 1960s, somatic psychiatrists, endocrinologists and surgeons engaged in heated debates, in particular with psychiatrists and psychologists, about the most appropriate approach to transsexuality. Researchers focused on so-called feminine boys, with the intention of treatment as a form of early prevention and as a way to solve the problem of transsexuality in adulthood (Bryant 2006: 26).

What is the best treatment for a child is currently a subject of controversial debate in medicine, including in terms of the revised Diagnostic and Statistical Manual of Mental Disorders (DSM), published by the American Psychiatric Association (APA, 2013) in May 2013, and the latest version of the ICD, which is scheduled for publication in 2017. According to the APA (2011), consensus has only been found for the perspective that the main goal of psychotherapy is "to optimize the psychological adjustment and well-being of the child [diagnosed with GID (replaced by the term gender dysphoria in May 2013)]". No agreement has been found regarding the following key questions:

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**29** | See chapter by Achim Wüsthof.

**30** | Biography.com: 'Christine Jorgensen Biography. Film Actor/Film Actress, Singer (1926-1989)'. URL: <http://www.biography.com/people/christine-jorgensen-262758> [08.09.2015].

**31** | Champenois, S. (2013): 'Bambi', douce trans. Libération. URL: [http://www.liberation.fr/ecrans/2013/06/04/bambi-douce-trans\\_952833](http://www.liberation.fr/ecrans/2013/06/04/bambi-douce-trans_952833) [08.09.2015].



- Reduction of atypical behaviours regarding sex/gender norms.
- Prevention of transsexuality, particularly hormonal and/or surgical intervention (Meyer-Bahlburg 2002; Zucker 1990).

Can the above be regarded as acceptable goals of psychotherapy and in line with the physician's professional code of ethics?

Further questions that remain to be answered by society include: Should the normalization of the child's self-perception and those behaviours that do not meet cultural sex/gender stereotypes and norms as a goal of medical treatment be considered an ethically sound approach? Should deciding such questions even be the domain of medical professionals or indeed professionals of any other discipline?

Many professionals consider sex/gender-related self-positioning and behaviour that does not conform to sex/gender norms as something requiring treatment or at least changing. But an increasing number of professionals are adopting a different perspective that accords the unconditional recognition of an individual's sex/gender-related self-positioning (Riley et al. 2013), often expressed as a preferred first name of choice, a pivotal role in their therapeutic approach.

Overall, the handling of trans children in medicine encompasses various approaches, of which several are divided below into the categories normalizing, avoiding and affirmative. Due to limited space, the approaches highlighted and described in terms of aims, methods and evaluation have been selected, because they have a key influence on the lives of children and their families.

### Normalizing approaches

In normalizing approaches, the attempt is made to adapt a person's perception of his or her own sex/gender, that is, a person's identity, to the cultural system of the sex/gender binary, with the goal of seeing the person remain in the gender role assigned to them at birth. The underlying assumption is that the person displays a deviation from sex/gender norms that requires treatment, which, however, varies depending on culture and time. Here, the needs expressed by the individual play a secondary role, while maintaining the binary sex/gender norms is of primary importance in this approach (Lev 2004: 331; Raj 2002: 3.1.2.).

Methodologically, a number of treatment approaches can be identified<sup>32</sup>, including different types of psychotherapy, such as behavioural therapy and psychoanalysis, but also other techniques used in psychiatry, like electroconvulsive therapy<sup>33</sup> (ECT) and pharmacotherapy (Lev 2004: 321), all of which have the same aim, upholding the sex/gender binary.

**32** | Also known as rehabilitative, conversion, corrective, reparatory or aversion therapy.

**33** | Report received by the author in December 2013, on the use of ECT in the case of a minor in France in 2009.

Some therapists recommend in-patient treatment in child and adolescent psychiatric centres lasting several months. The mother of a trans girl described a consultation with a senior physician at a well-known German university clinic:

“He tried to convince me that Dominique can only be saved if she was removed from her parents for a long time as an in-patient.” Other statements by the physician included: “What are 1.5 years of your child’s life compared to the rest of his life, the life of the boy”, and added: “The contact between child and parents needs to be severed for a lengthy period, so that the child can be broken at a point in time judged appropriate by experts and then rebuilt.”<sup>34</sup>

It should be noted that 'broken' in the quote above referred to the child's sex/gender identity. In light of the fact that a scientific basis for such a corrective approach is completely lacking, the suggested treatment is astounding, as is the notion of secluding a child in a psychiatric institution for 1.5 years without parental contact. Other authors recommend that parents ignore behaviours that do not conform to sex/gender norms, and that they encourage the child to develop sex/gender-stereotypical behaviours, which seem to correspond to the sex/gender the child was assigned at birth. In particular, Meyer-Bahlburg (2002) advises the public, including parents, to bring the child into more contact with children assumed to be of the same assigned sex/gender. Parents should also minimize contact with family friends with children of the opposite assigned sex/gender and to create new acquaintances with children of the supposedly same sex/gender. Within this context, the author particularly suggests that fathers should maintain more contact with their supposed sons – despite the fact that such a measure has not been proven to have any positive effect on the sex/gender related self-positioning of a child. This recommendation is based on the assumption that a child will alter his or her behaviour to that typical of the assigned sex/gender of those children they are surrounded with (see Bosinski 2013). However, according to Steensma (as discussed by Becker/Möller/Schweizer 2013), psychosocial aspects (including the quality of the relationships with peers) have no influence on the duration of gender dysphoria.

Other measures include systematic contradictions whenever a child expresses themselves in a way or exhibits behaviour that does not correspond to sex/gender norms. For example, a trans girl reported the following about her consultations with a physician:

“My every word was squashed down. For example, I expressed my anxiety that my hair growth would increase, that I have so many pimples and such bad acne. His answer was, and I quote: ‘But other

boys also have pimples.' [...] I also expressed my fear of developing more masculine features; that my body would continue to develop, because you can't reverse that. To which he replied: 'Yes, that's true.' I was scared of looking like Arnold Schwarzenegger in a dress. He also said: 'At sixteen puberty has been completed, you can't become more of a man.' When I said that a boy at school had fallen in love with me, because he thought that I was a girl, his response was: 'He's gay.' It was hideous. I felt completely undermined; I wasn't permitted to disagree with anything, my point of view was in no way accepted. He tried to convince me of the opposite of whatever I felt and said. I had the constant impression that they were trying to dissuade me from my path. My perceptions were stifled before they could even be fully expressed; the seeds of my self-understanding were destroyed."<sup>35</sup>

This type of process hardly seems indicative of a respectful patient-doctor relationship and does not comply with medical ethics.

In parallel to the approaches above, other forms of treatment under debate for children include outcome-neutral and supportive approaches (Becker/Möller/Schweizer 2013: 273; Meyenburg/Richter-Unruh 2012). Elaborating on this topic, Meyenburg writes: "The point of psychotherapy is not to eradicate sex/gender-atypical behaviour and corresponding wishes, but to explore whether a life in the biological sex is not possible after all." Drawing upon his findings that some girls had problems returning to the female gender role, Steensma (2011: 16) cautions against socially transitioning from the assigned sex/gender any earlier than shortly before puberty. These problems are not specified, including whether and to which extent factors like misogyny played a role. In terms of today's insights, medical techniques that attempt to maintain sex/gender norms, the ongoing lack of support for timely social transition, including at pre-school and primary school age, or the prevention of such a transition, should be considered to be normalizing approaches and, in light of the lack of scientific evidence, be viewed critically.

Scientific demonstration of significantly positive results in terms of the actual life situation of those affected are lacking for all approaches, as are long-term studies. No evidence exists that behavioural patterns or identities that do not correspond to sex/gender norms can be cured or repaired. To date, all evidence<sup>36</sup> suggests that a person cannot be retrained in terms of their sex/gender identity. In their review of two investigations that attempted to realign sex/gender identity (and moreover, sexual orientation), Zucker and Bradley (1995), arguably advocates of normalizing approaches, found little evidence that the goals of the study had been met. Not only is it impossible to change a person's sex/gender iden-

**35** | Intersex & Transgender Luxembourg a.s.b.l. (2013): Report of a person of their experience at age 16.

**36** | See experiences of psychotherapists, such as those of Peter Keins, as well as reports of the parents association TRAKINE.

tity. Sex/gender stereotypes are even reinforced (compare Langer/Martin 2004). Several authors consider normalizing approaches as psychologically damaging for children by lowering feelings of self-esteem, causing or increasing fear, depression and suicidal tendencies (Ehrensaft 2012; Hill et al. 2007; Mallon/DeCrescenzo 2006; Raj 2002; Rauchfleisch 2012). Moreover, Langer and Martin (2004) refer to the paper by Burke (1996), which discusses children damaged by treatment for Gender Identity Disorder of Childhood (GIDC). Professionals working with care givers<sup>37</sup> have described mothers contacting them to report the suicide of their child after such treatment. Such corrective treatment has also been described as 'brutal' (Mallon/DeCrescenzo 2006: 221) and 'unethical' (APA 2011; Nieder 2012: 16).

In light of the evidence that normalizing treatment approaches have damaging effects, clinical studies of how adults experienced undergoing such gender normalization approaches during childhood, including their potential damaging effects, are urgently needed (Lev 2004: 329). In contrast to Steensma's observations discussed above, a clinical study by Ehrensaft (2012: 354) observed no negative effects of re-transition when the environment of the individual was accepting. Strikingly, the approach of Steensma and Meyenburg again implicitly prioritizes maintaining sex/gender norms over the needs actually expressed by children. Children are not given the space to explore and claim for themselves a path of personal development, which might include transition during early childhood.

### **Avoiding approaches**

These approaches are characterized by non-reaction to requests, frequently from parents, of how to respond to behaviour by a child that is interpreted as not conforming to sex/gender norms. Parents do not receive an answer to their request for help. The best they can hope for is an admission of ignorance from physicians and psychologists. This is often connected with the perception that non-reaction will not cause any damage, that a life will take its natural course. A discussion about the possible negative consequences of such non-reaction, considering that the families continue to be exposed to the dangers of social marginalization, corrective and punitive measures, discrimination and – even the children – verbal and physical violence, without any protection. This approach cannot be considered neutral. The lack of acceptance of a child's sex/gender-related self-perception or self-positioning, or their sex/gender identity, can have serious consequences for the child's emotional stability and their ability to form relationships with others. Consequently, no decision or recommendation to families by professionals can be considered neutral at any point.

Similarly, letting teenagers live through the physical development of puberty cannot be considered a neutral decision (Giordano 2008). Firstly, the physical changes of puberty increase the suffering of trans minors, which can lead to mental health issues, including thoughts of suicide; and secondly, the risk of verbal and physical violence increases, if the teenager does not meet sex and gender norms, because the despised physical changes during puberty are irreversible, that is, cannot be undone.

### Affirmative approaches

In affirmative approaches, a child's sex/gender-related self-perception and self-positioning are accepted unconditionally. The child is supported according to their currently expressed needs and encouraged to explore their sex/gender identity. The expression of their sex/gender-related self-perception and self-positioning is explicitly affirmed. This can include social transition in early childhood which is increasingly being facilitated for children (Ehrensaft 2012; Hill et al. 2010; Lev 2004; Menvielle 2012; Möller et al. 2009; Torres Bernal/Coolhart 2012). Social transition at an early stage can often reduce psychological trauma like fear, depression and suicidal tendencies (Ehrensaft 2012; Rauchfleisch 2013). Key to this approach is the concept of intervening in the hostile, marginalizing [transphobic, author's note] environment, instead of individualizing the problem [of culturally based sex/gender norms, author's note] (Ehrensaft 2012; Hill et al. 2010; Lev 2004: 332, 346; Mallon/DeCrescenzo 2006; Menvielle 2012; Pirelli Benestad 2012; Raj 2002). In contrast to the approaches described above, this approach expressly states that a sex/gender identity that deviates from cultural norms is not pathological (Menvielle 2012: 363). At the same time, hormone treatment (delayed puberty and so-called cross-sex hormone treatment) is considered part of the affirmative approach. For more information about this methodology, see Wüsthof<sup>38</sup> and Spack et al. (2012). Giordano (2008) has described positive results using this approach. For many minors, this type of treatment has shown a significant improvement of emotional and psychological well-being (see Wüsthof<sup>39</sup>) and quality of life.

Apart from these considerations, the question arises under which conditions a child's desire for hormonal treatment (GnRh inhibitors or so-called cross-sex hormones) can or should be met, or more specifically, which criteria should be applied in this decision. General agreement on this question seems to include a high degree of suffering, suicidal tendencies, long-standing difference between the experienced and assigned sex/gender. Some therapists call for proof

**38** | See chapter by Achim Wüsthof in this volume.

**39** | Ibid.

of failed non-hormonal treatments prior to the start of hormone therapy (Becker 2012: 31) and wish to see hormone treatment viewed as a last resort that should only be prescribed after the completion of psychosexual development (also known as somatosexual pubertal development) (Korte et al. 2008), because the latter could be impeded, including in terms of the development of sexual orientation. According to critics, solid scientific evidence is lacking for any of the discussed approaches – be it for normalizing or avoiding approaches. This includes the affirmative approach, which however seems to have less detrimental effects than the others.

Making mature psychosexual pubertal development a precondition for transition is less than convincing considering the lack of scientific evidence regarding hormonal effects on various aspects of sexuality and sexual development and the reality of lifelong learning and ongoing experiences. Moreover, the approach ignores and discriminates against teenagers living asexually. Whether and to what extent the development of forms of sexual orientation are hindered, leading to impairment of developmental potential, seems to be more based on speculation guided by agenda, than on scientific insight. The high degree of mental and emotional stress placed on teenagers seems to not be an argument for early intervention with GnRh agonists for the proponents of normalizing and avoiding treatments. It should be noted that not all professionals support scientifically unproven hypotheses such as those described above. However, the one-sided emphasis in the debate surrounding the diagnosis of transidentity on the dangers of misdiagnosis, at the expense of a supportive treatment with few side-effects, is surprising. This imbalance fails to meet the needs of those in question – young people suffering significantly under the consequences of puberty.

Whichever decision is reached regarding the type of treatment – it has to be based on a transparent and objective basis, i.e. it should prioritize the articulated (and not presumed) needs of the child or teenager, and be based on scientific proof that the applied methods will have a positive impact on the child or teenager.

### **The fear of medical misdiagnosis**

One frequent topic of discussion is which young people should be allowed access to transition and by which means. Legal professionals limit professional liability for their decisions regarding applications for name or civil sex/gender status changes by drawing on medical opinions that certify something that cannot be scientifically proven. Medical professionals and psychologists fear making a wrong decision when it comes to approving treatment, in particular at what is

considered a young age (Preuss 2013 in Becker/Möller/Schweizer). The consequences of declining a person's wish for sex/gender transition are not discussed, with a few exceptions (Schneider 2013). Any ethical questions and concerns regarding the rights of children or human rights in general are discussed outside of the health care system, seemingly without playing a role in the medical decision-making process. This blinkered approach on the part of the health care system is unjust to children and adolescents. Similarly, the health care system must be released from its questionable role as the guardian of culturally specific sex/gender norms that serve to maintain sex/gender stereotypes. Unconditional recognition of and respect for an individual's sex/gender-related self-awareness and positioning are essential components of medical approaches in a health care system that prioritizes the needs of the individual.

## SUMMARY

The right to carry a name and to wear the clothing of the so-called opposite sex/gender, an essential part of an individual's self-determination, is claimed today even as it was a century ago (Becker 2004). Despite the fact that today's possibilities of hormonal and surgical intervention have brought other considerations to bear, insistence on this right rarely meets with acceptance, particularly in the case of children. However, along with the right to sex/gender-related self-determination as well as self-representation, this demand is, on the one hand, a core element of an individual's interaction with society at large and, on the other, vital to a person's self-image and self-esteem. The right to self-determination is not only a central tenet of any ethical considerations and many human (and children's) rights conventions, but also central to a person's emotional and mental well-being. Denying an individual this right impedes their ability to interact with their environment, their understanding of themselves, and ultimately, their sense of self-worth. Consequently, respecting an individual's right to self-determination, including how they position themselves with regard to the binary sex/gender order – without any form of pathologization – is imperative. Medical professionals should take the right of trans children and adolescents to self-determination seriously, not only by validating how an individual expresses their self-awareness, but also by responding to their needs as expressed, without placing hurdles in their path. Concrete examples include the right of an individual to be addressed by their given name of choice, both verbally and on paper.

Moreover, this should be possible on request, without the need for a court ruling, medical certification or other professional input. Professional input, in so far as desired and requested by trans people and/or their families, must abstain from disparaging or discriminating against the individual. This is not only a central tenet in ethical standards, but is also necessary to halt the common spiral of self-loathing, psychosomatic complaints and social marginalization caused by transphobia.<sup>40</sup> A key element is recognizing a person's sex/gender-related self-positioning in terms of law, jurisdiction, medicine and the education system. One possible measure could be reforming the legal framework governing 'sex/gender status' by optional registration of sex/gender, if at all, at birth, and altering of registered sex/gender at a later date on application to the appropriate bureaucratic authority, without medical input and court ruling. Such measures would ensure that the legal framework surrounding transition is no longer dependent on empirically unproven concepts of sex and gender, but instead solely prioritizes the rights of children and human rights in general. Moreover, decision-making by both medical and legal professions should take into account the possible consequences of denying a person's desire for transition as a matter-of-course. A legal framework that is particularly important with regard to children is the Argentinian law on gender identity,<sup>41</sup> particularly Article 12, which allows children to be addressed by their first name of choice, as well as the corresponding pronoun. Specifically, it says in this act: "Whenever requested by the individual, the adopted first name must be used for summoning, recording, filing, calling and any other procedure or service in public and private spaces". Discussion about scrapping the category of sex or gender in law and jurisprudence in Germany and other political and social spheres has to continue. The needs of the individual, instead of maintaining binary sex/gender norms, must become the priority of the health care system.

On a political level, medicine should be released from a certain responsibility, because when it comes to sex/gender-related self-determination, the only reliable criterion is the individual's own assessment of the stability of this assignment, and in how far this self-assignment is accurate and serious. The attempt to formulate objective expertise or to promote the notion of stable sex/gender identity beyond reasonable doubt as prerequisite for a name change, change of sex/gender in the birth register or for medical interventions like hormone treatment and surgery is doomed to failure and also risks maintaining further human rights violations.

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**40** | This includes discrimination against people who do not meet cultural sex/gender norms.

**41** | Global Action for Trans\*Equality (GATE) (2012): Argentina Gender Identity law. Article 12 – Dignified treatment. URL: <http://tgeu.org/argentina-gender-identity-law/> [14.08.2015].



For this reason, the option of changing one's sex/gender status and legal given first name easily and independently of input by health-care professionals is crucial. What is needed are pragmatic solutions that harm nobody, that conform to international conventions on the rights of children and human rights in general, and above all, that do justice to the children themselves.

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# Hormone Treatment of Transsexual Adolescents<sup>1</sup>

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*Achim Wüsthof*

## SUMMARY

A gender identity disorder in children and adolescents usually does not reveal any anatomical, chromosomal or endocrinological deviations: the body is perceived as being out of sync with the felt sex/gender which usually leads to considerable psychological stress. Hormone treatment arrests the changes in puberty perceived as extremely stressful and prevents irreversible changes such as deepening of the voice in biological boys or breast development in biological girls. Such a treatment is only recommended after a thorough psychological assessment by two independent gender experts from the field of child and adolescent psychiatry; the Endokrinologikum Hamburg, where the author is employed, works in close cooperation with the University Medical Centre Hamburg-Eppendorf. In addition, the parents have to give their consent to a hormonal procedure. In general, injections of GnRH analogues are used for suppressing puberty; also oral medications (cyproterone acetate) can arrest masculinization and, occasionally, gestagens are used to suppress menstrual bleeding. Once the adolescents then go on to live their daily life over a longer period in the desired sex/gender, the administration of cross-sex hormones (with estrogen or testosterone) has the effect that the body aligns with the perceived sex/gender.

## INTRODUCTION

Children who do not feel at home in their assigned sex/gender frequently express the desire for breasts if they have a penis or vice versa. Such remarks not only cause confusion in their families but sometimes also overtax the attending doctors. The children concerned are often for a long time left to their own devic-

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<sup>1</sup> | Original version in German.

es, unable to find anyone who is prepared to help them. And the treatment of transgender children and adolescents with hormones is by no means uncontroversial in expert circles. The recurring issue is whether and when it is appropriate to intervene with drugs in the development of puberty. In this article I would like to report on our experiences at the Endokrinologikum Hamburg where we have already advised and partly accompanied over the last 15 years more than 500 people with a gender dysphoria or a transsexual development.

### **Definition and frequency**

Almost all of those seeking advice have a very similar history: already since early childhood they feel as belonging to the other sex/gender. They reject their genitals and wish to change their bodies in such a way that it harmonizes with the sex/gender they feel themselves to be. How frequent are such gender identity disorders? Medical literature supplies very varied incidence data – from 1:3.000 to 1:100.000 (Möller et al. 2009).

### **Causes**

In their search for biological causes Australian researchers in Melbourne established that the CAG repeats of the androgen receptor is longer in transsexual women than in control subjects. Thus there could be a link between transsexuality and an atypical interplay between hormones and corresponding receptors (Hare et al. 2008). Also certain brain structures of transsexuals show similarities to those of the desired gender (Zhou et al. 1995). So far however no unambiguous biological explanations have emerged why a transsexual development occurs.

### **Controversies of hormone treatment**

The question concerning the age at which adolescents should begin a therapy is a point of much controversy among experts. A more guarded stance towards hormone treatment of transsexual adolescents is adopted by child and adolescent psychiatrist Alexander Korte from the University of Munich. He argues that “considering the low rate of permanent transsexual developments in children with a gender identity disorder, irreversible body-changing measures are indicated at the earliest after psychosexual development is completed”. According to Korte, the experiences that create identity through the body’s own hormones should not be constrained by puberty-blocking LHRH analogues (Korte et al. 2008). At the VU (Vrije Universiteit) University Medical Center Amsterdam, by contrast, puberty is suppressed from a Tanner stage 2-3 onwards (Tanner stage



2 in biological boys signifies a testes volume of  $> 3$  ml and in biological girls an incipient breast development).

The latter position, also favored by experienced Amsterdam colleagues such as Peggy Cohen-Kettenis and Henriette Delamarre-van de Waal, is the one we adopt in Hamburg. The precondition to starting treatment is of course that the child and adolescent psychiatrist or psychologist have through careful evaluation arrived at the conclusion that such a treatment is indicated. Then we first begin with a GnRH analogue treatment, i.e. with drugs that put puberty into a state of hibernation as it were.

Proponents of a later suppression of puberty such as the child and adolescent psychiatrist Korte fear that a drug therapy could influence further development iatrogenously, i.e. induced by medical measures. This is also taken up by psychiatrists such as the sexual medicine specialist Hartmut Bosinski from Kiel who argues that hormone treatment constituted a therapeutic suppression of a homosexual orientation. The question of homosexuality thus has to be carefully examined together with the adolescents concerned, because from a medical perspective a same-sex sexual orientation is a considerably simpler procedure: both medicalization and surgery can be dispensed with entirely and the individuals becomes sexually active with their biological body. However, the majority of transsexual adolescents were able to prove convincingly that theirs was not a case of homosexual orientation.

But what then are the arguments for an early suppression of puberty? To make it clear from the outset: in our view the advantages of an early treatment outweigh the disadvantages. The main argument: irreversible changes in the body, such as a deepening of the voice and growth of breasts, can be prevented. In addition, the adolescents are relieved of their psychological pressure, the depressive symptoms usually diminish considerably, and where this is not the case then this can be an indication that the diagnosis of transsexuality may be incorrect after all.

There is an interesting study by Steensma et al. (2011) on desisters and persisters conducted in the Netherlands: which patients adhere permanently to a transsexual development and which do not? Here, the age between 10 and 13 seems to be a very decisive one. When puberty sets in there is either a reconciliation with the biological sex or rejection increases dramatically. And when the latter is the case treatment should not be postponed any longer.

In Amsterdam, cross-sex hormone therapy has until now been recommended from the age of 16, which in many cases we find rather late, because this makes

the adolescents differ markedly in their appearance from their peers. They then live in the status of a neuter, which can be quite agonizing for them. In the Netherlands this age limit of 16 does however not always seem to be strictly observed in practice, as can be inferred from informal conversations on the sidelines of conferences.

A cross-sex hormone treatment can already be indicated when the transsexual development has been clear and stable for many years and the individuals concerned strongly desire a pubertal development that corresponds to the sex/gender they actually feel themselves to be. It is important for transsexual adolescents to develop in a similar way to their peers – so indeed already at thirteen or fourteen. Otherwise, an unequal situation of development arises: the risk of social exclusion increases. Further surgical measures are as a rule recommended for an age after eighteen. There are, however, individual persons who were operated already at sixteen, with mastectomies as well as feminizing surgery being performed.

### **Performing hormone treatment**

What guidelines do we observe at our centre regarding the start of a puberty-suppressing hormone treatment?

- A gender expert recommends such a treatment.
- Puberty has set in and irreversible physical changes are to be expected.
- The patients have been living for some time already in the desired sex/gender and are receiving psychotherapeutic support.
- The parents agree with the treatment.

How do we carry out such a therapy in practice? The adolescents are given GnRH analogues. These are in fact endogenous hormones (of the hypothalamus) that are reconstructed by pharma companies. They block the hypophysis and prevent the release of gonadotropins, the hormones that stimulate the testes and ovaries to produce sex-related hormones. This treatment is therefore very effective in suppressing puberty. In general, we use the drug Trenantone® (with the active agent leuporelin acetate) that only needs to be injected subcutaneously every three months. Treatment is rather expensive; one single injection costs around 450 Euros. The costs are fortunately covered by insurance, at least in Germany. In transsexual girls who have progressed relatively far in their pubertal development, we usually use cyproteronacetate (Androcur®); surprisingly very low dosages of 5 to 15 mg per day are already sufficient to counteract a masculiniza-

tion. In biological women who live as boys it is also possible to very effectively suppress the menstrual cycle with a gestagen (Oragametil®).

When is the right time to begin a cross-sex hormone therapy? The adolescents have already lived for some time in the desired sex/gender. In most cases they can't wait to get started with a cross-sex hormone treatment. For my first patient we still involved the ethics commission of the university clinic Hamburg which, after a hearing, delivered a favourable vote. The parents' consent is of course also necessary, since we are dealing with juveniles. In order to initiate cross-sex hormone treatment we require assessments by two different gender experts, even though almost all of our patients are presented in cooperation with the Department of Child and Adolescent Psychiatry at the University Medical Centre Hamburg-Eppendorf.

In most cases, cross-sex hormone treatment has been preceded by puberty suppression for 6 months or a whole year. At this point the adolescents are already living in the desired sex/gender, have informed their surroundings about the situation and are accepted as they are. Fortunately the majority of them report a favourable acceptance after coming out, teachers and co-students usually react with understanding. Some of the schools make an effort to add the desired name in brackets and the new name already appears also on the class roster. Changing rooms, physical education (PE) and the use of toilets are usually no longer an issue. Of course there are also schools where transsexual students are not treated so compassionately.

How do we then in practice go about such a cross-sex hormone treatment? In transsexual boys we begin with the administration of testosterone, with the dosage slightly depending on the bone age and body height. If I were to start with a lot of testosterone in somebody who is small, I would reduce the final body height. Exactly the opposite is true for transsexual girls: if I wait too long with a cross-sex hormone therapy these transsexual women will tend to become taller. That is why I frequently increase the estrogen doses faster, in order to arrive at a final height that conforms to the desired sex/gender. In transsexual girls we use estradiol valerate. In boys, testosterone undecanoate (Nebido®) intramuscularly is very effective in causing virilization. As soon as the Testosterone treatment is started the GnRH analogue can be discontinued.

### **Difficult decisions**

Many parents are afraid of making a mistake when consenting to a hormone treatment and think it better to let nature run its course. This is not an alter-

native because non-intervention can cause these adolescents to be caught up in a negative vortex, particularly in psychological respect. My colleague Cohen-Kettenis (2008) already mentioned above has expressed this very clearly: "Non-intervention is not a neutral option." I myself have experienced many very impressive cases of how hormone therapy helped these young people to regain their balance, how their performance at school improved and how they again managed to establish positive social contacts. With the help of hormone treatment the physical changes take place in a similar period of time as in members of the peer group and the adolescents are not forced to wait in an extra neuter category until all the others have already become either men or women. In my view, aligning physically with the peer group is very important, for otherwise transsexual adolescents are frequently relegated to a corner, very unhappy, even though partly accepted or tolerated. The hormone treatment not only bolsters their confidence and promotes their general psychosocial development, but also facilitates the development of romantic relationships.

What are the long-term side effects of such a hormone treatment? As yet, not many long-term studies exist, but the risks seem to be manageable. For instance, the risk of breast cancer in transsexual women is even lower in comparison to that of biological women and thus constitutes an increased risk compared to that of breast cancer in biological men. In connection with hormone treatment we also discuss with the adolescents the prospect of infertility. And at this juncture I would like to report about a 17-year-old transsexual girl who six months after beginning cross-sex hormone treatment decided to discontinue everything for 6 months, only to have her sperm cells frozen in case she should wish to have a child later in life. I was very impressed that someone who shortly before a sex/gender reassignment surgery – which has since then taken place – should want to keep this option open for herself. She also has quite specific ideas about one day having a child of her own, either with the help of a Lesbian couple, where here sperm cells can be activated, or through a surrogate mother.

## **CONCLUSION**

An early hormone treatment usually yields a significantly better result for the body to align itself with the desired sex/gender than if one waits longer, allowing the body to develop in the wrong direction. From my experience, it is extremely agonizing for many of the young people concerned if they are expected to undergo this pubertal development which they themselves perceive as dreadful.

For this reason I have difficulty in understanding those critics who demand that pubertal development should be completed before being allowed to begin with hormone treatment. Of course, for young people only at the onset of puberty it is almost impossible to assess how life will be as an adult. Sexuality, too, is usually still quite an abstract notion for them. We are able to change these young people physically in the desired direction, but in the process they do not automatically learn everything that belongs to being a woman or a man. I regard myself as someone giving advice and support to these adolescents, someone who also addresses the issue of sexuality and supports them in dealing with their body and their emotions. Debate continues over the question whether an early hormone treatment iatrogenously cements and fixates a certain development, thereby possibly preventing a homosexual development. A few years ago, when hormonal treatment options did not yet exist, a person with a sex/gender identity disorder would almost perforce have tended towards a homosexual orientation – as a feminine homosexual man or as a masculine lesbian woman. For this reason a certain doubt always lingers with us who administer the treatment that there could be a mistake in the assessment and that we are changing the fate of a human life with our therapy. I am aware of this great responsibility and at the same time prepared to take on the risk of this interference with nature, because I experience almost on a daily basis that most of the young people concerned are quite clearly happier with themselves and their lives thanks to my treatment.

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# Genetic or Biological Trans Parenthood: Dream or Reality?<sup>1</sup>

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*Petra de Sutter*

## SUMMARY

All scientific studies on the subject of trans parenthood show that transsexualism of one of the parents has no negative effect on the development of the child. There are numerous arguments in favour of trans persons also having the right to reproduce. Many of the arguments against reproduction of trans persons can be adduced to society's fear of transsexualism, to heteronormativity and ignorance of current technological possibilities. The demand, still common in many countries, that trans persons be sterilized as a precondition for a change in the civil register is discriminating and eugenic. Current medical practice limits itself to freezing sperm cells of trans women before beginning a hormone therapy for later use in the context of a homosexual relationship, as well as the insemination of donor semen in partners of trans men. The technology for using frozen ovarian tissue in trans men is not yet available. Here the only option is hormonal stimulation and vitrification of egg cells.

## INTRODUCTION

Already for several years now it is an established fact that transsexualism is not a mental disorder but requires a correct hormonal and surgical treatment in order to achieve a congruence between the phenotypical and the lived gender (T'Sjoen et al. (2004); see Standards of Care in Levine et al. (1998) and Meyer et al. (2001), recently revised [De Sutter 2009; WPATH 2011]). Due to the effects of fertility treatments, the transition to the desired gender and reproduction in trans women and men always seemed to exclude each other. Therefore the loss of

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**1** | Original version in French.

reproductive capacity was regarded as the price one had to pay for the transition. Although the trans persons' wish and right to reproduce has been recognized for almost 20 years (Lawrence et al. 1996), even today many medical experts – among them also those that treat trans persons – have great reservations against possible reproduction after sex/gender reassignment. It is only since 2001 that the Standards of Care recommend discussing reproductive options with trans persons who desire a hormone treatment (Meyer et al. 2001). Subsequently a debate began also among fertility experts whether trans persons who after their transition wish to have children in their relationship should be supported. The crucial question here was whether trans persons can be good parents or not and whether one has to fear a negative influence on the child's sex development or sex/gender identity (Baetens et al. 2003; De Sutter 2003a). There had been the same debate already years ago regarding homosexual persons (Hanscombe 1983) and this issue was then just as insulting for this group of people as it is today for trans persons. The debate should not revolve around the question whether trans persons should be able to have children or not, but rather address the possibilities of supporting them in their wish to have children (De Sutter 2001).

Numerous studies have focused on the well-being of trans persons after their sex/gender reassignment treatment (Cohen-Kettenis/ Gooren 1999) and many trans persons get on perfectly well with children from their previous relationships or with the children of their current partners.

### **Trans persons and their children**

Before discussing the practical problems that emerge after transition we will first turn to an analysis of the studies on families of trans persons in which there were children present already before transition. Even though the relevant data are not very abundant, Green has conducted a study with 34 children of trans persons who have remained in contact with their parents and came to the conclusion that their transsexualism poses no problem for these children (Green 1978, 1998). The parental transsexualism has neither a negative influence on the children's psychosexual development nor on their sex/gender identity. Sometimes the children are teased by their classmates, but only briefly and without any visible further effects. All children understood what had happened with their parent. Certainly, children can suffer under the separation or divorce that frequently follows the transition of a trans person, but this suffering results primarily from the reaction of the other parent, who refuses to maintain



contact with the trans person and sometimes even takes legal action in this respect. Green concludes that the trans parent should under no circumstances be separated from his or her children. Also studies on children of lesbian couples arrive at this conclusion (Brewaeyts et al. 1997). These children hardly deviate in their development from others, neither in their psychosexual development nor in their sex/gender identity. The problems that are sometimes an issue here are more related to discrimination and rejection of the parents' homosexuality by others. Here one should combat more the narrow-mindedness of society rather than the trans persons' desire to have children. White and Ettner (2007) have recently confirmed Green's findings and observed that children can deal very well with the transsexualism of one of their parents (particularly when they are still young), while they suffer very much under the parents' separation or divorce.

## **ARGUMENTS IN FAVOUR OF PRESERVING REPRODUCTIVE CAPACITY OF TRANS PERSONS**

### **The right of reproduction**

In today's reproductive medicine the right to reproduce is recognized for everyone (Robertson 1987; Schenker/Eisenberg 1997). For trans persons this is however not so simple, because the hormonal and surgical treatment makes natural reproduction impossible. In the fertility centres we also encounter other situations in which natural reproduction is impossible for obvious reasons: for couples of lesbian women. Lesbian motherhood is by and large accepted today and consequently insemination of donor semen as well as in-vitro fertilization (IVF), where one of the women provides the egg cells and after IVF the embryo is transferred to the uterus of her partner, are meanwhile routine procedures. The belief that trans persons can choose their sex/gender identity at will is comparable to the assumption that lesbian women would make a conscious choice to be lesbian. If we therefore do not regard homosexuality as a question of personal choice and support homosexual persons in their wish to have children why should we not do the same with trans persons?

Even if sexual orientation or sex/gender identity were a question of free choice this would change nothing in the argument that every person has a right to reproductive-medical support. Also people in more conventional settings have the free choice to control their fertility through sterilization and in case of a later change of heart to achieve a pregnancy through surgical restoration or artificial reproductive technology.

### **The legal argument**

Transsexualism is the only medical case where most countries demand sterilization as a precondition for a change in the civil register. This implies that children born after transition cannot from a legal point of view have been conceived by a trans person. In the past, this demand for infertility may have resulted from technological constraints, but the technology has meanwhile made significant progress and thanks to the preservation of gametes a person can very well conceive children also after his or her transition. Law has to adjust to the technological possibilities, not the other way round. Even if a child cannot be legally recognized, the obvious thing is in the case of a lesbian couple to preferably use the frozen sperm cells of the trans partner instead of those of a donor.

### **The argument that trans persons give little thought to reproduction**

Many trans persons, particularly adolescents, do indeed devote little thought to reproduction. This is however not an argument for not addressing the topic. Just as young people who have to undergo chemotherapy due to cancer are systematically advised to preserve their gametes in advance, this should also be possible for trans persons. Once the issues regarding their sex/gender identity have been resolved and life has returned to normal they can find partners with whom they want to have children. If they have frozen gametes at their disposal they retain the possibility of conceiving genetically related children. It is the responsibility of the attending psychiatrists or psychologists to address the subject before beginning treatment.

### **The argument of transmission of transsexualism**

An occasional argument against the reproduction of trans persons is based on the assumption that transsexualism is a genetic predisposition and can therefore potentially be passed on to children of trans persons. From what we know today transsexualism is a so-called multifactorial phenomenon and certainly not directly transmittable. If in the coming years a corresponding genetic feature should be identified it would still be up to the trans persons to decide whether they want to have children or not, in the same way that this applies also to people with disorders, illnesses or particular genetic features. Fortunately we no longer live in a world where it is the doctors who get to decide what is best for their patients.

In summary one can say that the arguments against the reproduction of trans persons feed from society's fear of transsexualism and heteronormativity

and the ignorance about current technological possibilities. The example of lesbian women has shown that access to new procedures also leads to the development and use of new modes of treatment (Hodgen 1988) and there is no reason whatsoever why this should not also apply to trans persons.

### **The cryopreservation of sperm for trans women**

In the following I will discuss the possible theoretical options. Even if many trans persons enter heterosexual relationships after their transition, a not insignificant number of trans persons identify themselves as homosexual. This makes clear that sex/gender identity and sexual orientation have to be considered independently from one another (Leavitt/Berger 1990; Main 1993). In this sense not all options listed here apply for all trans persons.

In trans women the feminizing hormone therapy leads to a termination of spermatogenesis and finally to azoospermia (absence of sperms in an ejaculate). After a certain time this becomes irreversible and of course surgical removal of the testes leads to definitive infertility. In this case, the only possibility for preserving fertility is cryopreservation of sperm cells, ideally before beginning hormone therapy. Provided their quality is sufficient they could be used at a later date by a partner for insemination, or an in-vitro fertilization (IVF) or even intracytoplasmatic sperm injection (ICSI) can be performed. Basically, also a testicular biopsy can be frozen since only very few spermatozooids are required for the ICSI procedure. In each case a child conceived via this procedure would stem genetically from both partners.

In the case of a trans woman with a male partner it is the same as with a male couple who today rely on the services of a surrogate mother who also provides the egg cell.

In 2003 we published a study on the opinions of trans women about freezing sperm (De Sutter et al. 2003a). The majority of the women interviewed (77 %) stated that the freezing of sperm should be discussed and offered before beginning hormone therapy. 51% would also have made use of it had the option been offered to them. This wish was strongest among young women (below 40) who identified themselves as lesbian or bisexual, for whom cryopreservation would thus be of particular interest.

At present, it is almost impossible for trans women to become pregnant and carry a child to full term themselves. Even though uterus transplants are possible, the success ratio is low and there are still a lot of technical and ethical issues involved.

### **Insemination of donor semen for female partners of trans men**

After their transition, many trans men enter a relationship with a partner with whom they might also want to have children. Even if in the future there may be new procedures available (see below) the majority of these couples can already perform an insemination of donor semen. Basically, this procedure is no different from the insemination of donor semen in other heterosexual couples. The literature reflects a debate on the acceptability of such a procedure (Baetens et al. 2003; De Sutter 2003b). For this reason we have initiated a long-term study to observe the development of these couples' children.

### **Freezing egg cells, embryos or ovarian tissue in trans men**

For trans men the situation is a different one than for trans women. Virilizing hormone therapy leads to a reversible amenorrhea, but the ovarian follicles remain intact. Even though the histology of the ovaries after androgen therapy resembles those of women with polycystic ovarian syndrome (Pache et al. 1991) these follicles still contain utilizable egg cells. Of course, here too surgery leads to definitive infertility. There are three possibilities for the preservation of fertility: freezing the egg cells, freezing the embryos and freezing the ovarian tissue. These possibilities resemble in principle those of women who have to undergo chemo or radio therapy due to cancer.

#### **Freezing egg cells**

As in the case of IVF, this procedure requires a hormonal stimulation and an ovarian puncture with a subsequent freezing of the egg cells. Even if this could be an interesting and effective strategy it is unlikely that many trans men would be prepared to undergo repeated hormonal stimulations in order to preserve a sufficient number of egg cells. If frozen egg cells are available, an IVF with donor semen would be required in case of a female partner. In the case of a male partner, a surrogate mother would be required. Here the child would genetically be related to both partners.

#### **Freezing embryos**

Freezing embryos is performed with the same procedure as freezing egg cells, but here sperm from a partner or a donor is required. Freezing embryos is a routine procedure where the chance of pregnancy is considerably higher than in freezing egg cells. Subsequently here too a surrogate mother or a male partner would be required. For the procedure to be effective a number of IVF cycles would have to be carried out. It is unlikely that it would be acceptable for many trans men to undergo such a procedure.

### Freezing ovarian tissue

This procedure is undoubtedly the most realistic one and is already used by women with cancer who had to undergo chemo or radio therapy. Here ovaries are extracted without prior stimulation or IVF and parts of them are frozen. In trans men this can be done in the course of the ovariectomy (Van den Broecke et al. 2001).

Similar to the freezing of egg cells or embryos this requires a semen contribution and a female partner, or in the case of a male partner, a surrogate mother. The problem with freezing ovarian tissue is not the freezing itself but the question what should happen with the tissue after thawing. It can be transplanted back again into the patients (Shaw et al. 2000; recently a first successful pregnancy was reported with this procedure: Donnez et al. 2004) (this is certainly not an option for trans men), it can be implanted into another person, which can however lead to rejection, or it can be implanted into an animal (e.g. into a mouse, but here there would be ethical reservations). In all three cases a follicle stimulation would be required with subsequent IVF. Another possibility is in-vitro culture with follicle and egg maturation, but here results have so far not been particularly encouraging. Even if freezing ovarian tissue appears at the moment to be the most promising option, much research will need to be done before this procedure could also lead to conception of children in the case of trans men.

## OUTLOOK

Even when this still sounds like science fiction today, stem cell research has progressed sufficiently to assume that in five to ten years we will be able to produce in-vitro gametes from any somatic cell and thus all options described here will become obsolete. We can also observe new developments in the area of uterus transplant: in 2012 a number of transplants were performed in Sweden, no cases of transplant rejection have been reported so far. In addition, immunosuppressants are becoming increasingly well tolerated compared to the past. We can therefore assume that in five to ten years successful uterus transplants can be performed.

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## **CHAPTER 5: SEX/GENDER NORMATIVITY AND INTERSEX BODIES**



# Intersex/ Gender-Related Constitutiveness: Specific Realities, Specific Norms<sup>1</sup>

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*Simon Zobel*

## SUMMARY

Life loves diversity and is geared towards variation. Variability and complex systemic strategies are a fundamental prerequisite of life. Already in terms of physical biology all human beings can be regarded as variable or polyvalent in terms of sex/gender. The elements constituting sex occur equally in all bodies. Variable factors on the genetic, cellular as well as organic levels and different hormonal proportions in the life cycle of all human beings condition a more or less developed sex-related specialization. Some are more polyvalent than the average. These are today generally referred to as intersexual. Following traditional scientific standards and categories on the basis of classical dichotomies, disorder is assigned to these large minorities, thus making the physical image treatable. Physical and psychological integrity is violated. Initially excluded from normality, these people are later included again via special arrangements, thus keeping existing scientific and cultural suppositions reproducible.

## INTRODUCTION

There are new approaches and worldviews in the natural sciences and engineering that are based on multilayered and complex systemic approaches and can also enrich the social discourse on (inter-)sex/gender-related constitutiveness (Goode/Machol 1957; Ramo/St.Clair 1998). What Western scientific thought has taught us since the 18th century can also frequently be reflected in the realm of sex/gender-related constitutiveness. Politically and in terms of human rights ever more concessions are being made regarding the right to physical integrity and self-de-

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<sup>1</sup> | Original version in German.

termination, but for the moment renowned representatives of medicine and medical research will continue to have the last word in the field of practice. (Inter-)sex/gender-related constitutiveness should be regarded as a social cross-sectional issue, since it is thematically linked to the norming of bodies on the basis of traditional cultural, secular or religious notions and categories.<sup>2</sup> Even more than 200 years after Enlightenment societies can still be marked by myths and rituals (Levi-Strauss 2013). This also concerns sex and gender. Also from a scientific point of view, medicine – primarily a science of pathologies (pathological and abnormal processes and conditions in the body and their causes) and of prevention – should not be conceded the sole expertise. This is the point of departure of the following contribution which also aims to show how disease is constructed in practice and made treatable with limiting paradigms. Sex/gender is like many other things not monocausal or one-dimensional. Variables and steady states co-exist together with a whole range of contingencies and strategies. The multi-dimensional peek over medicine's fence to living, complex systems beyond the old paradigms is also worthwhile with regard to sex/gender and the evolutionary adventure of the human being. The natural sciences are perfectly capable of providing new answers across the disciplines. An exponent of new approaches who is today as thought-provoking as he was in his time is the much quoted evolutionary biologist Haldane who famously remarked that the universe is not only queerer than we suppose, but queerer than we can suppose (Haldane 1928).

### The crux with categories and applying them

A team of researchers around Veyrunes (Veyrunes et al. 2010) at the Institut des sciences de l'évolution/CNRS, Montpellier observed in the fertile female mice of the African free ranging mouse population *Mus minutoides* in 75 to 100 % of the cases an XY karyotype. Mice are genetically closely related to human beings which is why they are frequently used in transgenic research. This example is worth mentioning because in the current medical view this constitutes a XY sex reversal. The female mice are genetically male. What is rarely mentioned is that something similar also exists in human beings. At the 8th Berlin Symposium for Pediatric and Adolescent Gynecology a case study was presented on 19 April 2013 involving a so-called complete androgen insensitivity syndrome (CAIS) with persistence of Mullerian structures such as uterus and ovaries as well as menstruation (Lehmann-Kannt 2013) on the basis of 46,XY and SRY-positive (chromosomal male).<sup>3</sup>

**2** | See the current debate around circumcision in boys and female genital mutilation in Germany. Rupprecht, Marlene (Germany, SOC), Children's right to physical integrity, Report Doc: 13297, 06/09/2013. Reference: 3912, Motion: 13042 (MRS). Resolution 1952. Recommendation 2023, Eurovoc Council of Europe.

**3** | Apart from the positive sequencing of 46,XY and SRY gene, the diagnosis 'complete androgen insensitivity syndrome' (CAIS) is today frequently already considered to be questionable and has in this case to be understood as a working diagnosis or a diagnosis of convenience.

Simplified genetic shorthand forms such as 46,XY are also used for attributing disorders and for making pathologizing conclusions. All the more reason to look at this in more detail. The majority of sex attributions and thus also diagnoses are based on the gene image identified in standard procedure via the light microscope, which corresponds to the karyogram with one of the so-called sex chromosomes (gonosomes). The term karyotype denotes the totality of all cytologically identifiable chromosomal characteristics of an individual. The karyogram is the schematic representation of the chromosome pairs according to size and form that defines the karyotype. Here the chromosomes are arranged in pairs by diminishing size, followed by the indication of the gonosomes. The so-called genetic shorthand is created as follows: number of chromosomes and finally indication of the gonosomes, e.g. 46, XY (male-systematized) or 46, XX (female-systematized). The genetic test material is usually extracted from amniotic fluid or heparinized blood. The attribution is carried out via the banding pattern characteristic for each chromosome. However, a great deal of genetic information or relevant structural variables remains invisible and cannot be captured by this standard mapping. For this one would need finely structured and more sophisticated molecular tests such as DNA sequencing and micro-satellite analyses as well as testing with tissue (e.g. skin biopsy, tissue biopsy without removal of gonads). The WHO's international statistical classification of disorders and related health problems also systematizes according to female or male malformations on the basis of karyotype and sex attribution in connection with gonads (testes, ovaries or ovotestis). What is generally referred to as intersexuality is categorized as an aberration or disorder of sex development in the WHO's ICD 10<sup>4</sup> according to clinical pictures and diagnosis codes, and corresponding treatments would be able to be billed on the basis of the ICD: ICD 10, chapter xvii congenital malformations, deformations and chromosomal abnormalities (Q00-Q99); Q56 indeterminate sex and pseudohermaphroditism; Q56.0 hermaphroditism, not elsewhere classified. Intersexual and ill would in this way be equated.

### The terms and their etymology

When two clearly demarcated sexes respectively genders are typified, then those persons appear atypical or generally intersexual who cannot be assigned unambiguously to either the female or the male sex in terms of genes (genetical-chromosomal image according to nomenclature), anatomy (internal and external genitals, gonadal as well as gonoductal<sup>5</sup>), hormones/endocrinology (quantitative ratios of

<sup>4</sup> | See ICD-10-GM version (2013). Copyright WHO, DIMDI 1994 – 2013. URL: <http://www.dimdi.de/static/de/klassi/icd-10-gm/kodesuche/onlinefassungen/htmlgm2013/index.htm> [21.09.2012]. English: [www.who.int/classifications/icd/icdonlineversions/en/](http://www.who.int/classifications/icd/icdonlineversions/en/) [18.05.2015].

<sup>5</sup> | Gonadal: gonads (gonads; ovaries, testes or e.g. ovotestis); gonoductal: gonoducts; spermatid ducts (vas deferens), oviducts, fallopian tubes.

the sex hormones, enzymatic metabolization etc.) as well as the phenotypical interplay of all these factors.

In order to be able to talk about sex/gender-related constitutiveness one is obliged to employ terms for biologies of sexes and/or genders whose etymology, vertical historicity and geographical use are not uniform across Europe. If in German one refers to people who cannot be assigned to one sex, usually the term 'intersexuality' is used. These people are sometimes also called intersexuals. Beginning in 1911, Richard Goldschmidt, zoologist and geneticist at the Kaiser-Wilhelm-Institut für Biologie in Berlin-Dahlem researched sex-related forms which he regarded as mixtures between an ideal-typical male and female phenotype. Goldschmidt coined the term 'intersexuality' (German 'Intersexualität') (Dietrich 2003). But since he worked in the United States from 1935 onwards the term came to establish itself internationally. In the English-speaking world the term 'sex' denotes the physical part of the sex/gender model and loses the inevitable connection to sexuality. With Goldschmidt we find however the terminological commingling of intersexuality with transvestitism, transidentity, transgender and sexual orientation (see Dietrich 2003). In French the term 'intersexuation' (from *sexuation*) is used instead of intersexuality. 'Sexuation' here denotes both the process of biological sex differentiation as well as the process of sex assignment/attribution (Ragland-Sullivan 2004). For the sake of a clearer distinction between inter-sex/gender-related constitutiveness and some trans sex/gender identities we will in the following use the term 'transident' or 'transidentity' when appropriate.

The present contribution aims to show why the terms 'atypical' or 'polyvalent' sex/gender features are preferred over others. 'Atypical' or 'polyvalent' need not necessarily refer to the outer appearance or the external sex features. It here refers primarily to the systematization or the categorization itself. The congenital physical sex-related constitution on a genetic, organic, anatomical or hormonal basis which is systematized as atypical is inert, i.e. stable and congenital. It exists independently of opinions about sex voiced by natural and social sciences and also independent of historical periods.

We should here take a closer look at the prefix *inter* as a synonym for *in-between*. All human beings have polyvalent features because elements that constitute sex are bipotent or bilateral in their structure.<sup>6</sup> Hormones (androgens as well as estrogens)<sup>7</sup> do not constitute separate, completely different con-

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**6** | Cells are referred to as bipotent when they have the ability to differentiate themselves into two different cell types within one tissue type. Also organs such as gonads are bipotent, being able to develop into testes, ovaries or hybrid forms. Bilateral means on either sides or two-sided. Some organs such as gonads or the lung have a bilateral or two-winged structure.

struction material and their enzymatic docking sites are in various gradations equally present in all human beings (Fausto-Sterling et al. 2000).

The biology of sex/gender-related constitutiveness is usually interpreted in the light of bimorphism, which is assumed to be a condition created by evolution and an optimization of human sex/gender-related constitutiveness (Cuozzo/Bratman 2005). Also the brain as a sex-related organ or as a transmitter or the organization of the brain is often investigated along these lines (Güntürkün/Hausmann 2007). On this basis anything atypical is then often understood as a malformation of binary sex/gender-related constitutiveness or as a less effective or less efficient sex/gender-related constitutiveness. Social-cultural sex/gender relationships often form the basis for science or at least determine how studies are organized or results are read, since also scientific research does not take place in a vacuum removed from social-cultural circumstances and the researchers themselves cannot provide completely objective conditions (Schmitz 2009). Atypical sex(-related) development is therefore hardly ever examined as a specific reality with its own specific norms. Usually people only see what they can and want to recognize. A reason why the evaluation of field research has often come up with surprises with respect to homosexuality in animals. Seemingly heterosexual partners have turned out to be homosexual (Bailey/Zuk 2009). The observation of same-sex sexual behaviour in animals is however used not only as an argument for homosexuality but also against the acceptance of human homosexuality, as a sin against nature (*peccatum contra naturam*). What is clear here is that the notion of nature or of the natural is used both by progressive and conservative camps as required.

### **Creation of minorities and subsequent inclusion phenomena**

Atypical or polyvalent physical sex/gender-related constitutiveness as a criterion first depends on the parameters of attribution themselves. One could for instance get the impression that we are here dealing with an infinitesimally small number of individuals or at least with particularities. It is only the sex/gender-related standardizations and the attributions of in-between sexes/genders and of deviations from the norm that create the large overlap of minorities with their corresponding sub-identities. One result of this is that inter sex/gender-related constitutiveness is often discussed in conjunction with issues of equal rights for third sexes/genders. It is then about equal rights for other kinds of identities deviating from the norm such as LGBTTIQ.<sup>8</sup> The other-

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**7** | Generally, sex hormones are divided into female (gestagens, estrogens) and male (androgens) hormones according to their function for target organs such as the internal sex(-related) organs. But essentially every human organism produces these hormones, even though in varying proportions.

ness of sex/gender identity, of sex/gender expression or sexual orientation is assumed as the common denominator. This creates an excluded intersection which can be subsumed under other or in-between and which requires special attention both in legal and medical terms. Without the previous exclusion from normality the subsequent recognition or equalization would not be necessary. Bi, gay or lesbian refers to the sexual orientation or sexual identity deviating from the norm.

In this attribution process intersex persons are classed with the group of deviating physical sex/gender-related constitutiveness or physical sex-related identities. Inter sex/gender-related constitutiveness is however a physical constitution and neither a sexual identity or orientation nor to be equated with transidentity or transsexuality. For intersex people this kind of terminological fuzziness and the subsumption under different and sexual orientation have the effect that important issues such as prenatal diagnostics, compensation for involuntarily performed surgical and hormonal assignment measures, off-label use of drugs<sup>9</sup> as well as the review of medical practice are not addressed. Mixed representations together with transidentity or trans sex/gender-related constitutiveness therefore do not take these important issues into account in a satisfactory way for intersex people.

Intersex persons comprise a rather heterogeneous group that can hardly adequately represent its interests quantitatively in LGBTTIQ contexts, as becomes particularly clear when regarding children and their parents. It is unlikely that parents looking for support would turn to an organization for queer life styles for advice. What is as a rule first of all most important for parents, besides acquiring access to basic information that is also independent from medical practice, is to find access to their child and accept its corporeality (Schweizer/Richter-Appelt 2012). At this point of the parent-child attachment the question of queer life styles may hardly play an important role or have a positive connotation. On the contrary, the connection to different forms of otherness relating to the term 'queer' could make young, inexperienced parents additionally insecure and favour choices for sex disambiguation measures. There only seems to be a minority of adolescent intersex persons that regularly attend LGBTTIQ meetings. The reason for this may be among other things that inter sex/gender-related constitutiveness has so far generally been concealed and that those concerned may not have been aware of it themselves. Finding and living one's own sex/gender or also sexual identity can also be experienced as something particularly intense and conflictual and as a very protracted pro-

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8 | LSBTTIQ = Abbreviation for Lesbian, Gay, Bisexual, Transsexual, Transgender, Intersex and Queer.

9 | Use of drugs for an unapproved indication.



cess. Many people first have to deal with the chain of imposed clinical histories for themselves personally and also regarding, among other things, the access to documents; often also legal procedures have to be initiated, for instance concerning the civil register. Finding oneself is often an intense, protracted process. This coming of age process<sup>10</sup> can in these cases be more intense than it is already for adolescents. It could also be even more precarious than the often difficult coming of age process of homosexual adolescents. Also as adults, the majority of the so-called intersex people do not necessarily see themselves as part of LGBTTIQ.<sup>11</sup> One should take care that consultation and funds for people systematized as intersex are not allotted in bulk in the framework of so-called gender multiplicity to meanwhile large and powerful LGBTTIQ organizations. As a rule these rarely have detailed knowledge and experiences about medical conflicts or legal or pension-related concerns of intersex persons. There is next to no adequate peer-to-peer support. Associations and cooperations would have to be based on mutual respect and competent distribution of portfolios. But questioning the current models of sex/gender-related constitutiveness and the legal, social and economic exclusions produced in the process is basically positive for everybody. It is the exclusions that produce the later necessary inclusion in the first place, which then in turn follows the dynamics of society.

### **Sex/gender biologies, the term of sex/gender identity and the consequences for intersex people**

Binary sex/gender-related constitutiveness is generally regarded as the effective mode of reproduction. Social genderizations can however be understood as a cultural product. Regarding women and men as fundamentally different beings is a comparatively young phenomenon in Europe – it did not develop until the 18th century (Laqueur 1990).

Connections between biology and sex/gender(-related) identity as well as sexual orientation are often sought. The term 'gender identity' by contrast comes from psychoanalysis and refers to the social role associated with gender. What was frequently seen as a precondition for the development of a consolidated male or female sex/gender identity was a body image that conforms to it or at least appears to conform to it externally (Money 1955). For the sex development great importance was also attached to a conforming female or male body image (Heigl-Ever/Weidenhammer 1988). This was and is also of key impor-

**10** | Coming of age denotes the transition of an adolescent person from childhood into adulthood. This can constitute a psycho-emotional maturation process, a person's identity evolution as well as the physical and psychological experience of puberty (Konrad/Firk/Uhlhaas 2013).

**11** | The author regularly participates in German and international events on the subject of intersex, attends self-help meetings of organizations such as the German Verband Intersexuelle Menschen e.V. and conducts many personal conversations, also across Europe.

tance in sex assignment or recently sex disambiguation measures in physically atypical persons. This has also led to early surgery or prenatal measures being recommended in the case of intersex children.

Hardly anyone of adult intersex people in Europe today has managed to slip unharmed through the tight net of sex/gender-related images, legal insurance protection plus parental care/guardianship in connection with medical recommendations. Therefore there is also little information about untreated persons that could question some of the prophylactic treatment methods and surgery. Renowned scholars of sexology such as Richter-Appelt and Schweizer (2009) do however concede today that, at least from their point of view, the sense and results of the current practices and procedures of assignment ought to be questioned. Also no reliable prognoses can be made about the development of sex/gender-related identity in adulthood (Schweizer/Richter-Appelt 2009). Hormonal and surgical measures are however irreversible. Surgery on the external genitals and on the urogenital tract, partly also on the gonoducts, is very painful. In addition, there is an increased risk of infection. Follow-up surgery is often indicated. Results are too often an alienated body, alienated or painful organs that also in people's subjective perception no longer belong to them (Brinkmann et al. 2007, Bundesverband Intersexuelle Menschen e.V. (2008), Schweizer/Richter-Appelt 2009). The specific problems, anxieties and conflicts of adolescents have up to now received insufficient attention. Hopes that their anxieties and conflicts might be removed through medical measures are generally regarded as failed, as for instance in the Hamburg intersex study of 2007 (Schützmann et al. 2009).

When atypical body-related sex/gender constitutiveness is discussed then this is frequently done in order to question the connection of biologies of sexes and social gender roles in general. It seems useful to question gender as a concept of the social or psychological side of sex/gender and of the social gender roles. One has to note here however that gender discourses in general do not signify any kind of relief for intersex children. Relativization of gender and social roles does not protect from surgical measures such as the removal of the gonads (gonadectomy) and of ovarian or testicular tissue or from so-called genital normalizing surgery. Inter sex/gender-related constitutiveness is often seen as a disorder of sex development and the measures are identified as medical therapies or a prophylaxis.<sup>12,13</sup> A majority of intersex children can today

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**12** | See guidelines of the Gesellschaft für Kinderheilkunde und Jugendmedizin (DGKJ), Arbeitsgemeinschaft Pädiatrische Endokrinologie (APE) as section of the Deutsche Gesellschaft für Kinderheilkunde und Jugendmedizin (DGKJ) as well as the Deutsche Gesellschaft für Endokrinologie (DGE), Workgroup Disorders of Sex Development (DSD) of the APE. Disorders of sex development. Authorized for electronic publication: AWMF online. URL: [http://www.awmf.org/uploads/tx\\_szleitlinien/027-0221\\_S1\\_Stoerungen\\_der\\_Geschlechtsentwicklung\\_2010-10.pdf](http://www.awmf.org/uploads/tx_szleitlinien/027-0221_S1_Stoerungen_der_Geschlechtsentwicklung_2010-10.pdf) [10.10.2010].

experience a more open, playful approach to gender roles. 90% of the infants whose parents are organized in the Bundesverband Intersexuelle Menschen e.V. had, to my knowledge, nevertheless received gonadectomy.<sup>14</sup>

### **Classes of inter sex/gender-related constitutiveness?**

In October 2005 the consensus conference of Lawson Wilkins Pediatric Endocrine Society (LWPES) and the European Society for Paediatric Endocrinology (ESPE) took place in Chicago, USA. The result was the so-called Consensus Statement on management of intersex disorders (Hughes et al. 2006). Instead of the hitherto used terms of ‘intersexuality’ or ‘hermaphroditism’ the term Disorders of Sex Development, DSD (German: Störung der Geschlechtsentwicklung) was introduced. This now subsumes all atypical forms of body-related sex/gender constitutiveness, regarding them as disorders or malformations. Sex/gender assignment surgery continues to be recommended, even though it is admitted that “no one technique has been universally successful”. A precondition for surgery should be an accurate diagnostics and prognosis of later sex development. However, “functional outcome” should be given preference over “a strictly cosmetic appearance” (Hughes et al. 2006). The question whether treatment possibilities have really been reduced cannot be answered at the present. It is however doubtful whether intersex can be optimized at all within a framework of binary sex/gender-related parameters. Together with the WHO’s International Classification of Diseases (ICD) the consensus paper constitutes an effective tool to subdivide inter sex/gender-related constitutiveness and make some forms of body-related sex/gender constitutiveness treatable. The ICD features the categories of hermaphroditism (true hermaphrodite) as well as female and male pseudo-hermaphroditism (pseudo hermaphrodite). Other physical conditions are not classified in this form but listed, for example, under endocrinological disorders. The ICD serves to encrypt diagnoses and is also used for billing inpatient services. In the case of atypical body-related sex/gender constitutiveness the diagnosis can thus first be found and the diagnostic and treatment facilitated. This division also has the effect that operative or hormonal treatments can be declared as sex disambiguation measures independently from the rest of a person’s body image, identity or personal sex/gender-related experience. According to this formula also those persons with an atypical physical sex need to have themselves evaluated according to the

**13** | See university clinic Heidelberg. Urology. Störung der Geschlechtsdifferenzierung III. Chirurgische Therapie des Intersex. URL: <http://www.klinikum.uni-heidelberg.de/Stoerung-der-Geschlechtsdifferenzierung-III.108328.0.html> [10.06.2013].

**14** | See footnote 10.

(German) transsexual law (TSG), who for instance wish to obtain a sex/gender entry independent of their karyotype or who are not considered as real hermaphrodites. In practice there are hardships for intersex people, even though the law actually only calls itself “law for the changing of first names and the establishment of sex affiliation in special cases” and aims to enable a life in the perceived sex/gender. For one thing, the sex/gender can only be changed to the other traditional sex/gender, and secondly, the procedure and the two expertises that ascertain the permanent perception of belonging to the desired sex/gender according to the findings of medical science are very expensive.<sup>15</sup> A disorder of the gender identity is then established.<sup>16</sup> Because of the so-called shadow reports of NGOs such as *Intersexuelle Menschen e.V.*, which were submitted to the UN in the framework of different conventions ratified by the Federal Republic of Germany, the German government instructed the German Ethics Council to prepare a statement on the situation of intersex people in Germany. Genital surgery, the removal of internal sex-related organs and hormone therapies on atypical human beings became a social issue with a broad impact and for a time shifted to the centre of public attention. Even though the German Ethics Council criticizes in its statement 2011 (*Deutscher Ethikrat 2012*) sex/gender assignment measures and basically recognizes the situation of intersex people it nevertheless follows clinical practice by differentiating between sex/gender-assigning and sex/gender disambiguation measures (e.g. according to karyotype and syndromes). The important discussion about abortion and prenatal diagnostics<sup>17</sup> is still only led along the fringes of the debates. Due to the ongoing progress in molecular-genetic mapping techniques as well as the electronic mapping of clinical files (family anamnesis<sup>18</sup>) the issue of abortion for instance in cases of undesirable chromosome constellations is becoming a hot topic.

Against the background of these recent developments the amendment of the civil register law represents an attempt to provide a deferment of assignment, relief for parents and child as well as space for the child's development. The German Ethics Council considers the obligation to fix the sex/gender to either male or female as “an unjustifiable infringement into the right to pri-

**15** | Act on the Changing of Forenames and the Determination of Sex/Gender Affiliation in Special Cases (*Gesetz über die Änderung der Vornamen und die Feststellung der Geschlechtszugehörigkeit in besonderen Fällen*) (*Transsexuellengesetz – TSG*) of 10 September 1980 (BGBl. I S. 1654). Last changed by article 1 of the act of 17 July 2009 (BGBl. I S. 1978). URL: <http://www.gesetze-im-internet.de/tsg/BJNR016540980.html> [10.06.2013].

**16** | See *Störungen der Geschlechtsidentität* (ICD-10 F64.-). ICD-10-GM Version 2013. WHO (ed.), DIMDI 1994 – 2013. URL: <http://www.dimdi.de/static/de/klassi/icd-10-gm/kodesuche/onlinefassungen/htmlgm2013/block-f60-f69.htm> [21.09.2012].

**17** | Prenatal diagnostic (PND) denotes examinations of the unborn child (fetus) and pregnant women for the early detection of disorders BJNR016540980.html [10.06.2013].

vacy and the right to equal treatment” (German Ethics Council 2012). After a corresponding decision of the Bundestag from January 2013, § 22 section 3 was inserted into the law which came into effect on 1. 11. 2013. The newly phrased paragraph stipulates: “If the child cannot be assigned either to the female or the male sex then the civil status event shall be entered without such information into the birth register.”<sup>19</sup> In one sense, the provision, adopted at rather short notice, points into a positive direction, yet in another it is also a cause for concern. On the one hand this is in effect not a ‘can’ option but a ‘must’ provision. On the other, the change does not affect the criteria and standards mentioned in the text, on the basis of which decisions are usually made. It remains for medicine to decide by which criteria the child cannot be assigned to either the one or the other sex/gender and which groups are excluded from this.

### A peek over the fence

Physical sex is not always as rigid, limited and divided in two as is generally assumed, even though it tends to be classified along the current criteria (Kuiper 2001). In Devon in Southeast England a hen is said to have varied its sex spontaneously and became the proverbial rooster in the henhouse (The Telegraph 2008). The zoologists and agricultural scientists Jacob and Mather (2000) assume in their article that in such cases the physical sex change can occur together with spermatogenesis, i.e. the creation of fertilizable sperm. One should however be cautious with citing examples from flora and fauna – as is often done in discourses around inter sex/gender-related constitutiveness. Conclusions about other species such as humans are likewise only possible in a limited way considering the complexity of the processes involved. What is interesting in Jacob and Mather’s article is that they interpret the described physical process of change as pathological even in the animal.

It is widely known that in the realm of flora monoecy and hermaphroditism exist beside dioecy.<sup>20</sup> Most blossoms are hermaphroditic. Hermaphroditism in the animal kingdom has already for decades been a subject of scholarly research. Thus a determination or change of the physical sex can occur when required for the survival of the species (Crews 2003) or the gonadal determination occurs under the influence of ecological factors, for instance temperature

**18** | Inter sex/gender-related constitutiveness often has a genetic base and occurs more frequently within one family.

**19** | German original: “Kann das Kind weder dem weiblichen noch dem männlichen Geschlecht zugeordnet werden, so ist der Personenstandsfall ohne eine solche Angabe in das Geburtenregister einzutragen” Federal Ministry of Justice: Personenstandsgesetz (PStG), “Personenstandsgesetz vom 19. Februar 2007 (BGBl. I S. 122), das durch Artikel 3 des Gesetzes vom 28. August 2013 (BGBl. I S. 3458) geändert worden ist”. URL: <http://www.gesetze-im-internet.de/pstg/BJNR012210007.html> [25.11.2013].

(Awise/Nicholson 2011, Reinboth 1975). What is also remarkable is that for a sex-related disposition only in a few cases does there seem to be a direct gonosomal-genetic basis, for instance also in the form of mosaics or chimerism or translocations.<sup>21</sup> The development of internal and external sex-related organs and their changeability is in many cases subject to further sex-determining factors independent of so-called sex chromosomes. For such factors DMRT1 or the DMRT1 expression is, besides others, a probable candidate that leads to the development of male or female sex-related organs. DMRT1 also plays a role in the temperature-dependent male sex-related development in the gonads of some species. In the sex differentiation of vertebrates, animal as well as human, DMRT1 homologous genes are also said to have an important function (Charlesworth 1996, Manolakou/Lavranos/Angelopoulou 2006).

The architecture of physical sex-related structures is subject to a great range of variables that particularly concern the tissue of the ovary and the testes. We can mention here the SOX gene family (Prior/Walter 1996) or the aromatase gene transcription (Ghosh et al. 2009, Pannetier et al. 2006). In mammals the transcription factor SRY which is coded for the Y chromosome is as a rule responsible for the development of indifferent, bipotent gonads to testes instead of ovaries. However, in its absence testes differentiation can occur. One single factor, the transcription regulator FOXL2, is necessary to prevent transdifferentiation of developed ovaries to testis. Induction of FOXL2 can apparently lead to an immediate upregulating of testis-specific genes including the SRY-critical target gene SOX9. The reprogramming of the Granulosa and Theca cell lines occurred consistently to lines similar to Sertoli cells and Leydig cells<sup>22</sup> comparable with those of male siblings. The cells thus changed by themselves from a female to a male mode. The results also show that the conservation of the ovarian type (of the ovaries) is a life-long, active process (Uhlenhaut et al. 2009).

The simultaneous occurrence of ovarian tissue or testicular tissue in one of the two gonads is referred to as ovotestis, or less often, as a hybrid of the two gonads. Interestingly, the testicular tissue seems to occur more frequently on the right side of the body of the (initially bipotent) gonads. The organs are always laid out in a two-winged or bilateral design. It is assumed that a gene mutation on the X chromosome or alternatively on an autosome makes the testis determination possible. In genetics, autosomes refer to the subset of the

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**20** | Monoecious = male and female features exist in one individual separate from each other. Dioecious = every individual has either only male or only female features.

**21** | In genetics, translocation (change of place, from Latin locus: place) signifies a chromosome mutation in which chromosome segments have been shifted to another position within the chromosome stock. In extreme cases an entire chromosome can dock onto another one.

chromosomes that does not belong to the sex chromosomes. Here it becomes clear in how far already genetic research itself can be sexed/gendered. In addition, in a few genetically female- systematized 46,XX persons with testis determination a SRY translocation to the X chromosome was observed. However, subsequent examination has revealed the majority of the individuals with the female karyotype 46,XX as being SRY negative. This is particularly interesting since therefore there exists no known testis-differentiating, male-systematized gene. In most cases a typical ovarian function (also menstruation) is further observed. The 46,XX karyotype is said to occur in 60% to 70% of ovotestis – the so-called real hermaphrodites (Guerra et al. 1998, Güitrón et al. 1998, University of Babylon).

### **(Inter-)sex/gender-related constitutiveness – specific realities, specific norms**

Studies on the research of the Y chromosome or the sex-determining region SRY indicates a development history that has been researched already since the 1960s (Ohno 1967, 1969; Watson/Riggs/Grave 1992). The sex/gender-related as well as general conditions in the realm of life appear to be subject to variable and bipotent parameters which are interlinked in interactive, complex systems. The conditions are neither random nor monocausal. Sex-related hormones, for instance, are classified as such on the basis of their effect. Biochemical building blocks, hormones create each other and are reconstructable. From a specific proportion onwards androgens are changed in all bodies via aromatase to estrogens. Aromatase also plays a role in the differentiation of the ovaries (Duffy et al. 2010). With increased testosterone uptake e.g. in power training, the additional testosterone suppresses the body's own release of androgens in the testes. The testes receive the signal work less which also reduces the spermatogenesis, i.e. the development of sperm cells. From a certain degree of more onwards the aromatase mentioned above triggers the development of breasts. Sex-related hormones do not represent a homogenous class of substances. They comprise steroids which function as hormones, and specific proteins. Varying differentiations according to sex exist in the quantity of produced and free sex-related hormones as well as the body's reactivity to the sex-related hormones which varies depending on other conditions such

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**22** | Granulosa cells and Theca cells are an important cell type for the maturation and the function of the follicle (egg cell). Through the influence of the aromatase, they produce estrogens from an androgen predecessor which the ovaries release. The Leydig cells are the most important interstitial cells of the testis. They comprise 10-20% of the organ mass of the testis. The most important function of the Leydig cells is testosterone synthesis. Sertoli cells protect and nourish the sperms. In the embryonic development the Sertoli cells form the Anti-Müllerian hormone (AMH) which is responsible for inhibiting the development of the bipotent Müllerian ducts.

as gene expression. Sex-related hormones are not male or female substances. Rather, they refer to the specific effect or regulative function these messenger substances have on the cells of the target organs (Berliner et al. 1996).

Neither are genetical factors monocausal or one-dimensional. Anyone who wants to continue to argue with genetics today should among other things not forget epigenetics – one of the key issues of genetics in the 21st century. Epigenetics defines mechanisms and consequences of hereditary modifications of gene activity. Hereditary modifications of gene activity as a term is important – they are precisely not chromosome modifications. These can be environmental but also social-ecological adaptations. Epigenetics is not based on changes of the DNA sequence (deoxyribonucleic acid, DNA) or DNA replication. Rather, it involves subsequent modifications of specific DNA elements such as DNA bases (DNA methylation), changes of the chromatin (histo-modifications) and RNAi-mediated mechanisms. RNAi (RNA interference) is a mechanism in the cells of living organisms which serves the targeted deactivation of genes. For the sake of simplification one often talks of epigenetic markers that structure the chromosomes. They regulate gene activity on the level of cells and tissue and play an essential role in regulating development processes in plants, animals and humans. The processes are however potentially reversible and therefore in the course of a life subject to environmental and developmental variability. Epigenetic adaptations are not permanent, in contrast to mutations (Morgan et al. 2005).

Finally, I would like to point to the molecular-genetical and endocrinological research by Holterhus on the cell level. He conducts research on (sex-related) hormonal signature which can reflect biological sex features perhaps more accurately than chromosomal DNA alone. The function of a gene or a gene family is involved in the cellular process. Holterhus assumes that androgens not only have permanent effects during sensitive phases of our genital development, but also permanently on organs. It is becoming increasingly clear that the brain can also display a sex-related development which shows itself in relation to the bonding or absence of testosterone. This influences behaviour and can also modulate identity. According to Holterhus (2009) these processes not only concern the brain but all organs. It is assumed that already on the cellular level there are different signatures, e.g. four sex-related signatures. This can be an indication that in some people, independently of the androgen reception for the development of a male external appearance, a brain cell and transmitter-related sex/gender identity and specific metabolism can manifest itself, and also that other people can display a brain cell and transmitter-related



sex/gender identity and cellular inter sex/gender-related constitutiveness, only partly dependent on chromosomes, gonads and external sex-related features. In addition it could support the assumption that inter sex/gender-related constitutiveness is already present on the cellular level and is subject to its specific realities and norms.

## CONCLUSION

In the wiring boards of sex/gender there seem to be intrasystemically different levels of organization which in turn are subject to their own subdynamics. Subdynamics are not directly hierarchical by nature or deducible from each other. Rather, the organizational structure seems to be partly target-oriented and partly, via cellular portal systems, permeable in a complex way. Interactive interplays exist on all levels, both with the surrounding as well as with regard to ecological factors. Sex/gender-related constitutiveness can therefore neither be regarded as radically independent from nor radically dependent on biological, in particular hormonal factors. Rather, the multidimensional character of sex/gender-related constitutiveness should be emphasized and examined. This also means: alternating permutation and multifaceted play.

All humans are physically polyvalent; some are just more polyvalent than the average.

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# Intersex: Medical Measures on the Test Bed<sup>1</sup>

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*Jörg Woweries*

## SUMMARY

Intersex persons are regarded by medical practitioners as a disruption of the sex order because they have genitals that do not conform to the norm. The awareness for the impact of 'gender' also and in particular in the field of medicine does not seem to be very pronounced among its professionals, with the result that this term is largely absent in medical literature. However, in order to emphasize the impact and interrelatedness of both terms 'sex' and 'gender' they frequently appear together in the following text.<sup>2</sup> In the past, but also in the present, intersex persons were regarded as being in need of treatment and as a consequence were subjected to primarily genital assignment surgery in order to achieve a simulated superficial norming of their sex. In doing so, the norms of the German term 'Geschlecht',<sup>3</sup> also present in medicine, as well as the mechanisms of their implementation are ignored because the surgeons referred to here are only concerned with the body. What is crucial here is that these intersex persons are infants and children who owing to their age could not and cannot give their consent. However, surgery involves a high risk and damage to health. This contribution focuses on the special situation of girls with 46,XX-DSD, because it has shown that for a not unsubstantial 'quantity' surgical interventions in childhood can have the result that the sex/gender identity perceived by that person at a later age as belonging to her or him can no longer be taken into account.

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**1** | Original version in German.

**2** | This does not apply to German, since the term 'Geschlecht' comprises both aspects.

**3** | The German term 'Geschlecht' includes besides the physical component ('sex') also the psychological ('sex/gender identity') and social ('gender') components.

## INTRODUCTION

Since the Chicago Consensus Conference (Hughes 2006) and in the medical guidelines<sup>4</sup> intersex persons are catalogued under ‘Disorder of Sex Development’ (DSD) (see Woweries<sup>5</sup>) thereby according a key position to medicine. This goes hand in hand with the assumption that the heterosexual binary sex-related constitutiveness remains the basic point of reference, that sex as well as gender is assigned for life and that in intersex people the physical basis for either of these two sexes has yet to be established (Götze 2011). What this perspective ignores completely is that intersex, viewed from a totally different angle, could be regarded as an individual feature to be appreciated and not as a problem that calls for medical treatment (Voß 2012). This kind of sociocultural perspective is what the Swiss ethics commission (2012) attempts to take into account when it uses phrasings such as ‘sex/gender variants’ or ‘differences of sex development’<sup>6</sup> in order to avoid a pathological connotation. It is with this in mind that it refers to “infants and children who are in principle healthy” but who “with reference to the child’s welfare [...] have been subjected until very recently to sex/gender assignment surgery.”<sup>7</sup> This medical view of sex disregards the psychological and social perspective.

### What is being done?

The aim of all medical and surgical measures is to align the external genitalia that do not conform to the norm either with the male or the female genitalia. As a rule, multiple reassignment operations are performed on the genitalia to achieve a spurious superficial norming of the sex. These operations are irreversible. In general the following operations are performed:

1. In numerous intersex persons with a female phenotype, who however have a male 46,XY set of chromosomes, the testes are removed. This is in effect a castration which in Germany is punishable as grievous bodily harm.<sup>8</sup> This

4 | Deutsche Gesellschaft für Kinderheilkunde und Jugendmedizin (DGKJ) (2010): Leitlinien: Störungen der Geschlechtsentwicklung (Guidelines: Disorders of sexual development). In: AWMF-Leitlinien-Register Nr. 027/022. URL: <http://www.awmf.org/leitlinien/detail/ll/027-022.html> [01.08.2013]. Deutsche Gesellschaft für Kinderheilkunde und Jugendmedizin (DGKJ) (2010): Leitlinien: Adrenogenitales Syndrom (Guidelines: adrenogenital syndrome). In: AWMF-Leitlinien-Register Nr. 027/047. URL: <http://www.awmf.org/leitlinien/detail/ll/027-047.html> [01.08.2013].

5 | See Jörg Woweries’ contribution in this publication: ‘Who is sick? Who gets to decide?’

6 | Statement of the Swiss National Ethics Commission for Human Medicine (2012): Zum Umgang mit Varianten der Geschlechtsentwicklung. Ethische Fragen zur ‘Intersexualität’. (On dealing with variants of sex development. Ethical issues in ‘intersexuality’) p. 7.

URL: <http://www.bag.admin.ch/nek-cne/04229/04232/index.html?lang=de> [01.08.2013].

7 | Ibid., p. 5.

8 | For children § 1631c BGB: “The parents cannot consent to a sterilization of the child. Neither can the child consent to a sterilization.”



is however circumvented with the assertion that this is a surgical intervention for the welfare of the child by pointing to a debatable later possibility of a malignant deformation. Even though in rare cases there is the risk, much later in life, of a degeneration to cancer<sup>9,10,11</sup> regular preventive medical checkups can keep this risk to an acceptable minimum. However, the testes are almost always removed without any recognizable calculation of a possible risk of degeneration, because they do not match the external image of the female genitals that the surgery attempts to achieve.

2. Shortening of an elongated clitoris (clitorectomy, clitoral reduction).
3. Broadening and elongating a vagina regarded as rudimentary, resulting in a so-called neo-vagina.
4. Surgical modifications of internal genitalia.
5. A further complex of intersex phenomena, hypospadias<sup>12</sup>, is not considered in this article for reasons of space.
6. Unilateral dystopic testes are not part of this system of genital surgery discussed here since they do not regard intersex people.<sup>13</sup>

### Who is sick? Who is made sick?

A vital hormone substitution for loss of salt is necessary in a special form of intersex, the adrenogenital syndrome (AGS).<sup>14</sup> Medical, i.e. vital surgical interventions are only indicated in cases when the flow of urine is prevented. In these cases the parents have to give their child's consent by proxy as its life is at stake. All other forms of surgery are cosmetic or esthetic operations since they lack the medical indication in the sense of preventing a life-threatening condition. It is all merely about the external appearance.

Concerning the damage and risk of genital surgery one can safely say that it involves high rates of damage and an on the whole elevated risk. The risk of damaging sensitive nerves is clearly elevated and, as with all surgery, unavoid-

**9** | "Data on the risk of malignant deformations are lacking completely here. The literature references on a definitive risk of a development of gonadal tumors are insufficient. In cases of gonadal dysgenesis and female assignment an early gonadectomy is therefore recommended (approx. at the age of 1 year or together with other surgery)". AWMF guideline register No. 027/022, p. 5.

**10** | For the complete androgen insensitivity syndrome (CAIS) the risk of a malignant tumor is 0,8%, for ovotesticular DSD it is 2,6% and for the partial AIS it is around 15%. In cases of gonadal dysgeny the risk can be over 30%. (Pleskacova, J. et al. 2010). The lifelong risk of breast cancer is around 12,2% (according to US National Cancer Institute) No doctor would dream of removing the breast in all girls because of this risk.

**11** | According to the relevant literature the risk of the development of a gonadal blastoma for XY women with dysgenetic gonads is above approx. 30%. Cools, Martine et al.: Germ Cell Tumors in the Intersex Gonads. In: *Endocrin Rev* 27, 5, pp. 468-484. Pleskacova, J. et al. (2010), p. 7.

**12** | In hypospadias the urinary tract does not end in the tip of the penis, but on the underside of the penis, on the scrotum or in the area of the perineum.

**13** | Rudimentary, functionless testes that do not lie in the scrotum without any indication of an intersex development.

**14** | AWMF guideline register No. 027/047.

able in practice (Bosinski 2005; Diamond/Sigmundson 1997; Meyer-Bahlburg 2008). “Even today patients with DSD incur the risk of being traumatized by medical and psychological treatment” (Birnbaum et al. 2013). And Kessler asks: “Why does the solution for ambiguous genitals always have to be the surgeon’s scalpel?” Kessler (1998: 105). Statements on post-operative results have only been presented in the last years. With the conspiracy of silence that was part of the doctors’ system of treatment the endocrinologists and surgeons obstructed themselves by dispensing with a retrospective review of their interventions (see Woweries<sup>15</sup>). A first convincing evaluation after more than 40 years of surgical practice concerned statements of intersex people in a retrospective non-representative study.<sup>16</sup> Surgery was performed almost exclusively on persons who were unable to give their consent.<sup>17</sup> Of the children of the age of 7 and 12 years 86% and 87% had surgery,<sup>18</sup> in today’s adults the percentage was as high as 93,6% to 100% in three of four diagnostic groups. This leaves out of consideration that many had multiple surgery (Götz 2011; Kleinemeier/Jürgensen 2008). In many cases further operations had to be performed in later years, in puberty and after.<sup>19</sup> In the network study<sup>20</sup> 25% of the participants operated on complained about complications: most frequently about fistula formation in 40,5% of the cases, about constriction of the efferent urinary tract in 27%, about inflammation of the urinary tract in 32% and about problems with urinating in 21,4%.

In a catamnestic study 78 intersex adults have experienced their medical treatment as negative (Brinckmann/Schweizer/Richter-Appelt 2007; Schweizer 2012). 62% displayed clinically relevant psychological suffering and 47% contemplated suicide. These reactions are frequently a result of the numerous operations, together with being exhibited by doctors in the framework of medical student and specialist training and the appurtenant experience of feeling helpless and exposed. Kessler writes that “excess genital examination is a form of abuse” (Kessler 1998: 59). If recognition is a part of human social participation, then the “negative experiences with the tabooization of the issue” (German ethics commission 2012) and the mere statistical infrequency in public perception are sufficient for generating stigmatization. For this reason, intersex people often hide their otherness (Zehnder/Streuli 2012). 13,5% report about past self-muti-

**15** | See Jörg Woweries’ contribution in this publication: ‘Who is sick? Who gets to decide?’

**16** | Kleinemeier, E., Jürgensen, M. (2008): Netzwerk Intersexualität: Erste Ergebnisse der Klinischen Evaluationsstudie im Netzwerk Störungen der Geschlechtsentwicklung/Intersexualität in Deutschland, Österreich und Schweiz. Januar 2005 bis Dezember 2007. URL: [http://www.netzwerk-dsd.uk-sh.de/fileadmin/documents/netzwerk/evalstudie/Bericht\\_Klinische\\_Evaluationsstudie.pdf](http://www.netzwerk-dsd.uk-sh.de/fileadmin/documents/netzwerk/evalstudie/Bericht_Klinische_Evaluationsstudie.pdf) [03.09.2013].

**17** | Ibid. p. 16.

**18** | Ibid. p. 16.

**19** | Ibid. p. 16.

**20** | Ibid. p. 17.

lations – also for the reasons explained above. The parent-child relationship too is subjected to severe stress (Richter-Appelt/Schimmelmann/Tiefensee 2004). In addition, the network Intersexualität reports about psychological strain in 45% of adult intersex persons (Kleinemeier/Jürgensen 2008). The findings of a meta study indicate that the goal of a normal psychosocial development was not reached.<sup>21</sup>

A retrospective, non-representative recall study of 57 persons with the male XY set of chromosomes, but an at first sight female phenotype (complete or partial androgen insensitivity syndrome – CAIS or PAIS) (Köhler et al. 2012) established the following: the participants had had surgery in childhood so that their genitals would better match the female sex assigned by the attending doctor.<sup>22</sup> The recall study indicated that 47,1% of the participants experienced discomfort in the function of the vagina, i.e. the vagina was too small for tampons, 47,4% suffered considerable loss of clitoris sensitivity. 56,3% to 70% complained about continuous pains while having sexual intercourse, depending on the subgroup (CAIS or PAIS). In the light of these very frequent damages the authors could not but recommend that this kind of surgery should not be performed in childhood. They demand the consent of the adult patients themselves, not their parents. The German Ethics Council also recommends that the decision should on principle be made exclusively by those affected capable of giving consent (German Ethics Council 2012: 174).

### **Additional discussions about girls with 46,XX-DSD and andreno-genital syndrome (AGS)**

The German Ethics Council refers to the surgery on the genitals of girls with 46,XX-DSD and AGS syndrome as sex disambiguation surgery (2012: 108). One should however attempt to understand which reasons might have led the German Ethics Council to differentiate between sex assignment and sex disambiguation surgery. From the literature published in the statement of the Ethics Council we can deduce the following: after a survey by the network Intersexualität and the Hamburg study by Richter-Appelt it was possible to establish that a large number of women with AGS are also later satisfied with surgery they had undergone in childhood. Many do not see themselves as intersex people. These persons live as adults in a female role. This fact has to be acknowledged. For this reason the German society for child endocrinology and diabetology (Deutsche

<sup>21</sup> | Refers to 21 international studies from the years 1974-2007. Schönbucher et al.: Sexuelle Lebensqualität von Personen mit Intersexualität und 46,XY-Karyotyp, ZfS 2008, pp. 26 ff.

<sup>22</sup> | According to the consensus statements DSD persons with 46,XY CAIS and most people with PAIS were assigned as women. Hughes, I. A. et al. (2006): Consensus statement on management of intersex disorders. In: Arch Dis Child 91, p. 556.

Gesellschaft für Kinderendokrinologie und Diabetologie) recommends surgery in cases of AGS also in early childhood (Birnbäum et al. 2013: 161, 150). It is however surprising if in this situation the council concludes that this surgical procedure should include all children with AGS (surgery is recommended at the age from two to twelve months).<sup>23</sup> This ignores those intersex people who later, as adolescents or adults, do not wish to live in the female role. These voices thus remain unconsidered. A large proportion however lives either in a male role or does not feel it belongs to either sex. The German Ethics Council (2012: 86) states that 31% of the participants with AGS plead for leaving sex/gender reassignment open. Bora (2012: 28), expert of the German Ethics Council, stated that this was the case with 35-40% of persons with AGS. According to Nieder and Richter-Appelt "we know from research that the majority of persons with AGS, despite 46,XX karyotype, live in the male role."<sup>24</sup> The guidelines mentioned in the beginning report 17% (of these 5% of 46,XX women and up to 12% of 46,XX men with classical 21 hydroxylase deficiency) who complain about problems with the assigned gender role.<sup>25</sup> Of the women adult today 10% attained an unusually high score on the transgender scale, further 3% are very unsure concerning their sex/gender affiliation (Kleinemeier/Jürgensen 2008). These studies show methodological differences in evaluation, depending on whether the so-called AGS girls were asked whether they would prefer to be a girl or rather a boy or whether they are confused about their own gender identity. The data come from diverse sources and are thus inconsistent, but they concern a larger quantity for whom such operations constitute sex/gender assignment surgery. These people know only the experienced or imposed sharp dichotomous separation of the sexes and they mostly find themselves in a situation after genital surgery. Such surgical measures greatly impede a later transition to the other sex (Meyer-Bahlburg 2008). This prevents to an unknown extent a voluntary affiliation in another direction. It is conceivable that other, female-assigned people could profess to want to live in the male or in another gender role. This aspect contradicts the statement of the German Ethics Council that the surgery performed on children with 46,XX DSD and AGS only constitutes sex disambiguation surgery. Here,

**23** | "[...] it is undeniable that in prenatally virilized girls a corrective, feminizing operation of the external genitalia has to be performed" [JW]. Riepe, F. G., Sippel, W. (2008): Das Adrenogenitale Syndrom. In: *Kinder- und Jugendarzt* 39, p. 112.

**24** | Nieder, T. O., Richter-Appelt, H. (2009): Neurobiologische Korrelate bei Geschlechtsidentitätsstörungen. In: *Psychiatrie im Dialog* 10: 60. They also quote: Richter-Appelt, H., Discher, C., Gedrose, B. (2005): Gender identity and recalled gender related childhood play-behaviour in adult individuals with different forms of inter-sexuality. In: *Anthropologischer Anzeiger* 63, pp. 241-256; Jorge, J. C. et al. (2008): Male gender identity in an XX individual with congenital adrenal hyperplasia. In: *The journal of sexual medicine*, 5, pp. 122-131; Meyer-Bahlburg, H. F. L. et al. (2006): Gender development in women with congenital adrenal hyperplasia as a function of disorder severity. In: *Archives of sexual behavior* 35, pp. 667-684.

**25** | AWMF guideline register no. 027/047.

the social aspect of 'gender' was not taken into account in the council's discussion of the issue.

The term 'sex/gender identity' also includes, besides the physical features, always also one's own determination of one's sex and gender, which comprises the self-perception as man or woman or something else, for instance whether one assigns oneself to one of the two sexes, to none of them or both of them. Depending on which subgroup of intersex people has been interviewed, 15-30% or more have experienced a high degree of insecurity as to which sex/gender category they should assign themselves to (Schweizer/Richter-Appelt 2012: 187 f., 207 f., 225 f., 433 f.). A majority (58%) of intersex people and 31% of the AGS persons advocate leaving the educational gender open; this decision should be considered in a flexible way and not force children into a particular gender behaviour (German Ethics Council 2012: 86 f.). Even though the gender role can often be surmised already in early childhood, it is only later, around the time of puberty, that children's awareness and own views are better taken notice of (Diamond 2008).

There are indications from medicine and neuropsychology that in so-called AGS girls the own further orientation is determined already before birth by testosterone and testosterone-similar substances such as androgen. In the course of their development they see themselves later in a female,<sup>26</sup> a male role or one deviating from these.<sup>27,28</sup> "However, there appears to be no correlation between the severity of the genital phenotype and the existence of problems."<sup>29</sup> Diamond and Richter-Appelt (2008) comment on this: "The most important sex organ is between the ears."

The following can be considered an undeniable fact:

- Sex/gender identity cannot be recognized at birth, neither do the sex chromosomes (XX or XY chromosomes) determine sex/gender identity.
- There is no stringent causality between genital appearance and sex/gender identity.
- Sex/gender identity cannot be determined by any medical or psychological measure. This can only be done by the individuals themselves.

**26** | Girls with 46,XX DSD are sometimes referred to as tomboys. This is however as a rule not regarded as an intersex variant.

**27** | Among others Berenbaum, S. A., Hines, M. (2003): Effects on gender identity of prenatal androgens and genital appearance: evidence from girls with congenital adrenal hyperplasia. In: *J Clin Endocrin Metab* 88, 3, pp. 1102-1106.

**28** | Holterhus, P. M. (2012): Prägung des menschlichen Genoms durch Androgene. Molekulares Gedächtnis der Androgenwirkung. In: *Intersexualität kontrovers*. Schweizer/Richter-Appelt (Eds.). Psychosozial.

**29** | AWMF guideline register No. 027/022.

- The awareness of one's own gender comes about in a developmental process that goes on for years and can continue beyond the time of puberty.
- Whether someone regards themselves as a man, a woman or something else cannot be assigned or established by any surgery.
- "An assimilation of intersexuals into one of the two sexes doesn't work", emphasizes Reiter (2000).

These aspects should be considered when judging surgery on infants, children and adolescents. Deciding to which sex one belongs is something only the person concerned can do, so sex disambiguation surgery on children is also inadmissible under whatever circumstances. Already some time ago Diamond and Sigmundson (1997) demanded that surgery that is not vital should be deferred until the persons themselves request it. As a consequence of much criticism an ethics group in Germany (Wiesemann/Arbeitsgruppe Ethik im Netzwerk Intersexualität 2008) has demanded that measures that are practiced without satisfying evidence, that are irreversible and performed without necessary medical indication should be postponed until the persons themselves wish to take the decision and are old enough to be allowed to do so. For the German Ethics Council (2012: 112) too it is a primary goal "that the self-determination of the child should not be limited unacceptably by unnecessary surgery." "We also know from the relevant literature that a higher than average percentage of people with various forms of disorder of sex development decide in the course of puberty or in adulthood to change the social gender assigned to them." (Jürgensen/Hiort/Thyen 2008). The German Ethics Council interviewed girls and women with the adrenogenital syndrome: around 50% of the questions were answered by the parents. This raises the question how often the parents' doubts concerning the surgery they approved of in the past have influenced the answers to justify their own decision, to apologize or to live with the decision they took at the time. One should here also note the parent's pressure for medical action (Kleinemeier/Jürgensen 2008: 17) and the research conducted by Dayner (2004). The latter showed that for 95% of the parents the genital appearance, i.e. the external image, is more important than erotic responsiveness. Then female students in the second part of the survey were asked to imagine having been born with a 1 cm long clitoris and thus, due to the supposedly excessive size, not conforming to conventional notions. An overwhelming majority of 93% of the students responded that they would not have wanted their parents to consent to surgery in order to change the genital appearance if this would have meant the loss of sexual responsiveness or

of the ability to experience an orgasm. More than 50% of the students would not have wanted surgery, even if the outer appearance would have been perceived as unattractive or unpleasant. These students would rather have preferred other kinds of surgery, for instance to reduce the size of noses, ears or breasts instead of surgically shortening a supposedly too long clitoris.

Lembke's arguments in her note to the German Ethics Council (2011) also belong to this discussion: the imposition of notions about the 'right' genitalia, unambiguous sex, and the acceptable size of a clitoris or the 'right' sexuality violates fundamental human rights and has furthermore serious negative effects on the desired sex/gender equality by reproducing female stereotypes. This is exactly what the UN women's right convention wants to see stopped. Kessler (1998: 56 f., 107 f.) criticizes that a vaginoplasty is constructed in a girl for one reason only, namely to enable sexual intercourse with a man. The idea that all women desire heterosexual intercourse perpetuates the notion of women as passive receptacles of male desire.

In 1961, a highly renowned pediatrician, Prof. Jürgen Bierich (1961: 387), wrote a contribution in a standard text book on intersex that was used well into the 1970s. While the reduction of a too large clitoris has remained a topic to this day, at the time he even demanded the extirpation i.e. the complete carving out of the clitoris, because the enlarged clitoris would be in the man's way during intercourse. For this reason Bierich recommended this operation on children under 4 years of age. The incredible brutality connected with such a procedure can compare with the genital mutilation still practiced on girls in parts of Africa, the female genital mutilations (FGM). These have been denounced since 1995 by the United Nations as a human rights violation. In 2013 the German Bundestag debated over a criminal code amendment act on the punishability of the mutilation of female genitalia.<sup>30</sup> With his call for genital mutilation Bierich had his co-perpetrators and predecessors. Medical journals can tell us that in the mid-19th century in Germany and other countries in Europe clitorectomy was performed hundreds of times for various reasons, e.g. to combat mental disorder and epilepsy, masturbation and lust in women.<sup>31</sup> As late as in 1938 the *Zentralblatt der Gynäkologie* (central journal of gynecology) described clitorectomy for treatment of masturbation.<sup>32</sup> It is very irritating that echoes of the past still linger on today, albeit in a subconscious or suppressed way. In some medical centres in Europe the complete removal of the clitoris (clitorectomy) is still the method of choice for an enlarged clitoris (Riepe et al. 2002).

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**30** | Rechtsausschuss (judicial committee), 24 April 2013, StrÄndG. URL: [http://www.bundestag.de/bundestag/ausschuesse17/a06/anhoeerungen/archiv/46\\_\\_\\_\\_Str\\_\\_ndG/index.html](http://www.bundestag.de/bundestag/ausschuesse17/a06/anhoeerungen/archiv/46____Str__ndG/index.html) [03.08.2013].

In several consensus statements and reviews one can read the following statements<sup>33</sup> about children with 46,XX and AGS:<sup>34</sup> the consensus statements of 2002 and 2006 (Clayton et al. 2002 and Hughes et al. 2006) suggest that 46,XX DSD children with a significant virilization should be presented as adolescents at the earliest. Surgery, such as vaginoplasty, should be deferred until adolescence or adulthood, since there are no controlled clinical tests on the effect of early surgery (under 12 months) compared to later surgery (in adults or older adolescents). Let me add here some additional study findings: after clitoral surgery 78% showed a high rate of non-responsiveness and a loss of ability to orgasm compared with 20% of non-operated women in a comparison study.<sup>35</sup> After vaginoplasty the appearance may be satisfying, but the vagina is too narrow for sexual intercourse, which occurs in more than 80% of the respondents (Creighton 2004). If a cosmetic surgery is desired one has to take the possibility into account that the artificially created opening will grow together again with the consequence that a vaginal dilation has to be performed. A number of articles warn against follow-up surgery on children and treatment by bougie, i.e. keeping the orifice open via mechanical instruments in many examinations over many months. These measures can lead to very severe and long-term psychological traumatization.<sup>36,37,38</sup> “Inserting a bougie in a girl’s vagina amounts to rape”, says Kraus-Kinsky (2012: 162). Kessler rates these numerous repeated procedures as sexual abuse. “All research on this subject reports throughout [...] reduced sexual responsiveness in AGS patients, which appears to correlate with the degree of [...] the corrective genital surgery” (Wünsch/Wessel 2008: 41). “Vaginoplasty is actually only necessary for penetration and can therefore be postponed until adolescence” (Bosinski 2005: 40). For these reasons Krege (2011), as a surgeon, prefers to perform surgery in a later period in life, because she can then discuss it with the girls themselves. One should therefore wait until the adolescents or the

**31** | Hulverscheidt, M. (2011): *Weibliche Genitalverstümmelung*. Mabuse-Verlag.

**32** | Ibid. p. 19, quote Zentralbl Gynäkol 11, pp. 584-585.

**33** | Clayton et al. (2002); Creighton (2004); Creighton/Minto (2001); Creighton/Minto/Steele (2001); Crouch et al. (2008); Hughes et al. (2006); Lee et al. (2006); Pagon et al. (2010); Speiser et al. (2010); Stein et al. in collaboration with the Canadian Pediatric Endocrine Group (2005).

**34** | Kessler reports in detail on the older literature 1998, pp. 52-76.

**35** | Mouriquand, P., surgeon, (text from the ARTE film of 04.10.2010 (in translation)) “It would be window dressing to assure the parents that a clitoral reduction would have no effect on responsiveness. No one can do that.”

**36** | Hoepffner, W. nach Finke/Höhne (2008) (ed.): *Intersexualität bei Kindern*. p. 133; Riepe F. G., Sippel, W. (2008) In: *Kinder- und Jugendarzt* 2, 39, p. 112; Bosinski, H. A. G. (2006): *Sexualmedizinische Aspekte bei Intersex-Syndromen*. In: *Urologe* 45, pp. 981-991.

**37** | AWMF guideline register No. 027/022.

**38** | Wünsch, L., Wessel L. (2008): *Chirurgische Strategien bei Störungen der Geschlechtsentwicklung*. In: *Monatsschrift Kinderheilkunde* 156, p. 234-240.



adults themselves express the wish to undergo surgery. Anyone who advocates clitoral reduction lets himself be guided by randomly established cultural norms. Preservation of responsiveness after clitoral reduction cannot be guaranteed. Therefore clitoral reduction in childhood is not acceptable, it can only be desired by persons capable of consent – as a cosmetic operation – if they desire it at all. “Unfortunately there are only very few good long-term postoperative studies in this area, and the existing study findings refer to operative methods that have long since fallen out of use, since they are no longer regarded as acceptable today” (Grüters 2008: 34). Therefore, genital operations are basically all one-off experiments, because impaired sensitivity or too narrow vaginoplasty can be detected by the person concerned only after many years, in adolescence or adulthood.

### Proposals to policy makers

Human rights organizations, self-help groups of intersex people and others demand an immediate halt to all cosmetic surgery on genitals in infants or other children under the age of consent. This also has to apply to people with the adrenogenital syndrome (AGS). Any surgical procedures that risk a permanent impairment of fertility or sexual responsiveness have to be terminated immediately.<sup>39</sup> These constitute serious violations of children’s rights. This also reflects the view of the German federal government.<sup>40</sup>

The reports to the human rights commission of the United Nations have led politicians in the German Bundestag to question the views and practices of many medical practitioners and clinicians.<sup>41</sup>

Have the medical practitioners changed their stance following the accusations of the UN human rights commission and the German parliament? Up to now there have been no joint critical statements on the existing practices and the guidelines continue to remain in effect.

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**39** | Deutscher Bundestag Drucksache 17/ 13253, 24. 04. 2013: The SPD calls on the German Bundestag/ government to “assure that sex assignment and assimilation surgery on juvenile intersex persons before their age of consent are banned. At the same time it has to be guaranteed that a unique by-proxy consent of the parents to irreversible sex assignment surgery of their under-age child is not permitted – except in life-threatening emergencies or when there is a medical indication.” In addition also further motions by other parties: Deutscher Bundestag Drucksache 17/12859, 20.03.2013; Deutscher Bundestag Drucksache 17/12851, 20.3.2013.

**40** | Deutscher Bundestag Drucksache 17/11855, 12.12.2012, p. 5.

**41** | Deutscher Bundestag Drucksache 17/14014, 14.06.2013: Beschlussempfehlung und Bericht. (Decision recommendation and report). URL: <http://dip21.bundestag.de/dip21/btd/17/140/1714014.pdf> [02.12.2013].

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# Intersex and Human Rights<sup>1</sup>

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*Vincent Guillot*

## SUMMARY

According to a statement by Luxembourg's political parties of September 2012 there are no intersex people in Luxembourg. This is a surprising assessment since there are intersex people all over the world. One reason for this invisibility of intersex people is that also in the 21st century society is still marked by sex and gender binary and heterosexuality. Anyone who cannot or will not fit into to these paradigms is regarded as abnormal and has to be aligned. Children are still operated on to align them with one of the two standard sexes and respective genders, some of them are even aborted before birth. But there are also countries that do not have this tradition of mutilation, such as Nepal or some Indian Federal States. In recent times an increasing number of countries have included further gender categories in official documents. In addition, more and more international declarations and recommendations are issued that take an unequivocal stance against sex/gender assignment surgery and other medical interventions on people below the age of consent.<sup>2</sup>

## INTRODUCTION

Participating in a round-table discussion with Luxembourg's political parties on the issue of intersex at the conference "Gender Normativity and its Effects on Childhood and Adolescence" I was extremely surprised to hear that there are supposedly no intersex people living in Luxembourg. This is hard to believe considering that in France according to medical practitioners 8000 intersex chil-

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<sup>1</sup> | Original in French.

<sup>2</sup> | These other medical interventions mainly consist in hormonotherapy, non-health related nude examinations, as well as photography taking, as well as gender role prescription.

dren are born every year<sup>3</sup> and in the Western countries intersex is more common than previously thought, with every 2000th birth and a proportion of 1,728% of the population on entering puberty (Fausto-Sterling 2000: 53). This raises the question how in a small, wealthy and very modern country such as Luxembourg something can be named that does not exist (Guillot 2008) and above all, why it doesn't exist? The reasons advanced by the participants of the round-table discussion were that Luxembourg has only since very recently a cancer registry, but as yet no comparable data bank of other disorders – and thus also not of intersex – that the sex/gender assignment operations, which I would like to describe as mutilations, are outsourced to neighbouring countries and that intersex people are not mentioned in Luxembourg's legislation. But I believe the essential causes for this absence lie somewhere else and a corresponding survey among practitioners potentially attending intersex people (gynecologists, endocrinologists, urologists etc.) could contribute to identifying them. One should also bear in mind that the sex and gender binary and heterosexuality shape our Western societies for whom a sex(/gender)-atypical person seems to be something inconceivable. The coitus is per force heterosexual, whether penetrating or penetrated. A man has to urinate standing up, everything is measured by the presence or non-presence of the penis and the rest is regarded as an undesirable fragment to be eradicated. In addition, the consistent invisibilization of these non-conformable people is the result of a biopolitics (Foucault) and was systematized by the psychologist Money in the middle of the 20th century in the form of the Hopkins protocol. Children that cannot be assigned to one of the standard sexes (male/female) are assigned a sex directly after birth in an emergency operation – usually the female one – thereby deleting every trace of their singularity. Parents and relatives are expected to continuously stabilize discursively the sex selected by the doctors, regarded as the true sex, and to deny the children concerned their original otherness. This leads to the intersex paradigm: "We are not allowed to say that which we have not been told that we are." (Guillot 2008). In my view, these traditional medical interventions amount to genital mutilations and physical torture. At best they damage sexual responsiveness, at worst and very often they lead to serious problems such as incontinence, fistula formation or chronic pain which in turn frequently require numerous surgical corrections. Furthermore, these children are as a rule castrated and artificially turned into life-long hormone patients, and this only because they violate sex and gender norms. But the interventions also constitute psychological torture because the institu-

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**3** | Interview by René Frydman with the pediatric surgeon professor Claire Fékété on 22 January 2013 on France Culture. URL: <http://www.franceculture.fr/player/reecouter?play=4566631> [02.09.2013].



tionalized silence creates shame and ignorance about one's own body, which all through one's youth flare up anew with every encounter with the doctors, since the repeated treatments are never openly justified – because they cannot be justified medically. This psychological torture can be reactivated for an entire life with every contact with the medical world, since the person's inter sex/gender-related constitutiveness is systematically negated or silenced when they ask for explanations from the doctors. These interventions are regarded by biopolitics as medical and (psycho)social emergency measures whose aim it is not to relieve the affected persons themselves, but the supposed psychological suffering of a third party, the parents (American Academy of Pediatrics 2000; Fausto-Sterling 2000; Gueniche et al. 2008; Lee et al. 2006; Meyer-Bahlburg 2008).

In other words, intersex is one of the rare cases in modern medicine where the one group of people (the children) are physically mutilated to relieve the other (the parents) psychologically (Aaronson 2004; Holmes 2008, 2011; Karkazis 2008). This does not pay off, neither for the children, who do not feel comfortable in their body and will be sick for the rest of their lives, although they enjoyed the best of health before, nor for the parents, whose initial anxiety about the birth of a child with atypical sex characteristics makes way to a continuing pain which places a burden on the entire family for generations with its mixture of taboo, secrets and doubts about the choice of the right or wrong sex. There is nothing to justify these mutilations, because even if the external sexual organs of intersex persons are not conventional, they are nevertheless healthy and functional in the sense of sexual responsiveness. Adult intersex persons describe their mutilation experiences as very stressful and traumatizing. (Guillot 2008; Karkazis 2008; Kessler 1998; Picquart 2009). Since some time some doctors recommend an in-utero sex normalization by giving dexamethasone to pregnant women whose fetuses are potential carriers of the adrenogenital syndrome (AGS). This practice is at the centre of current bioethical debates and exemplifies the desire of biopolitics to not only delete sexually non-conventional bodies, but also homosexuality and transidentity (Dreger/Feder/Tamar-Mattis 2012). If in the various prenatal tests the suspicion of intersex emerges, then abortion is widely recommended or even imposed in the West.

Criticism of these mutilation practices common in the Western world is not new: the first intersex persons who denounced this voiced their concerns with the establishment of the American Intersex Society of North America, ISNA. In the following years further associations would be set up, the most significant of which is the Organisation Intersex International, OII established in 2002 (Bastien Charlebois/Guillot 2013). Meanwhile, biopolitics insisted on its scholarly

position and in the light of growing criticism did no more than revise the periphery of its discourse, while systematically delegitimizing that of the persons concerned (Bastien Charlebois).

### Changes in sight?

Nevertheless, successful law suits and the work of human rights organizations have created more visibility for intersex people. In dialogue with certain doctors it was furthermore possible to end hormonal-surgical mutilation of intersex children in some places and help them to achieve self-determination, as for instance in the Swiss canton Waadt. Thanks to this ground work by associations of intersex people across the world – also partly in cooperation with organizations of lesbians, gays, bisexuals and trans persons (LGBT) – it was possible to spark off a debate on the issue of intersex which also the legislators of various countries have directed their attention to. Some countries have chosen the inclusion of a further gender category in official documents, which however does not necessarily need to be understood as a third gender. Some made this choice because they have no mutilation tradition, such as Nepal, Pakistan and some Indian federal states. Here the traditional recognition of the existence of persons beyond the gender norm was merely inserted into existing laws. Other countries, by contrast, could only be persuaded under pressure of so-called sexual minorities and the movement of intersex people to take this step, such as New Zealand and Australia. The practice of genital mutilation was initially not denounced here. The first country to put the termination of hormonal-surgical mutilations into law is Malta,<sup>4</sup> this last April 2015. In Switzerland it is only the termination of hormonal-surgical mutilation that is discussed,<sup>5</sup> the introduction of a third gender category is however rejected at this point in time.<sup>6</sup> We therefore experience both in the poor countries and the so-called rich countries different new conceptualizations of sex and gender and observe at the same time a paralyzing inactivity in modern democracies such as the Grand Duchy of Luxembourg. And this considering that the enormous challenge is not so much the existence of intersex bodies but rather the biopolitical co-option of the way society deals with the issue that has been going on for a good 60 years. Most of the intersex bodies do not deviate externally from social gender norms, and where this is the case it is as a rule only visible

4 | German ethics council (ed.) (2012): Intersexualität. Stellungnahme. URL: <http://www.ethikrat.org/dateien/pdf/stellungnahme-intersexualitaet.pdf> [25.07.2013].

5 | Nationale Ethikkommission im Bereich Humanmedizin, NEK-CNE (ed.) (2012): On the management of differences of sex development. Ethical issues regarding "intersexuality". Opinion no. 20/2012, p.19. Bern.

6 | Nationale Ethikkommission im Bereich Humanmedizin, NEK-CNE (ed.) (2012): Medienmitteilung. "Intersexualität": Das Wohl des Kindes steht an oberster Stelle.

in private. The numerous testimonies by non-mutilated intersex people that we have knowledge of indicate that they can handle their situation perfectly well, appreciate their special body and identity and also receive sympathy and live a fulfilled private and professional life. Indeed, also in the so-called West there are people that have escaped medical mutilation practice, and in countries without traditional mutilation practice adult intersex people also attest to this fact. The medical professionals however ignore this category of persons in their studies, since they are not aware of them.

In general, these people see themselves as one of the currently socially admitted sexes. A part of them are either women or men, only a minority demands an alternative identity. As grown-ups some of these people want to align their bodies to their gender identity via hormonal-surgical measures and have in the course of this procedure to shoulder the burden of a psychiatrization via an official transsexualism diagnosis, which is the precondition for access to corresponding treatments and a change of the sex in the civil register. Considering the number of intersex persons that there are everyone of us will know someone from this group of people without necessarily being aware of their being intersex. To give another example: Purely in statistical terms there is at least one intersex person sitting in a tram during peak times!

While Luxembourg legislation completely ignores the existence of intersex persons, other countries or supranational bodies include these in their legislation or recommendations. Without referring once more to the countries that traditionally recognize people with bodies beyond the sex and gender norm we will in the following turn to the progress that has been made so far.

## International Declarations and Recommendations

The Yogyakarta Principles for the implementation of international human rights with regard to sexual orientation and gender identity<sup>7</sup> define gender identity. This text thereby constitutes a landmark for the legal protection of gender identity. Even if intersex persons are not explicitly mentioned as such, its chapter 18 is directed at them:

“Take all necessary legislative, administrative and other measures to ensure that no child’s body is irreversibly altered by medical procedures in an attempt to impose a gender identity without the full, free and informed consent of the child in accordance with the age and maturity of the child and guided by the principle that, in all actions concerning children, the best interests of the child shall be a primary consideration”.

**7** | The Yogyakarta Principles (2008): Yogyakarta Principles. The application of international human rights law in relation to sexual orientation and gender identity. URL: [http://www.yogyakartaprinciples.org/principles\\_en.pdf](http://www.yogyakartaprinciples.org/principles_en.pdf) [04.07.2015].

In the declaration of Montreal<sup>8</sup> of 2006 the issue of inter sex/gender-related constitutiveness is explicitly addressed for the first time. It states that “intersexual individuals experience a particular form of violence, in the form of genital mutilation resulting from unnecessary post-birth surgery, designed to make them conform to a rigid binary model of physical sex characteristics” and demands “that genital surgery on intersexual persons be prohibited, unless they are old enough to understand it and consent to it.” In the declaration of Stockholm of 2012<sup>9</sup> the Second International Intersex Forum made the following demands:

1. To put an end to mutilating and normalizing practices such as genital surgeries, psychological and other medical treatments, including infanticide and selective abortion (on the grounds of intersex).
2. To ensure that the personal, free, prior, and fully informed consent of the intersex individual is a compulsory requirement in all medical practices and protocols.
3. Creating and facilitating supportive, safe and celebratory environments for intersex people, their families and surroundings.
4. In view of ensuring the bodily integrity and health of the intersex child, psycho-social support and non-pathologizing peer support be provided to parents and/or care providers and the child's immediate family instead of surgical or other medical treatment unless such interventions are life-saving.
5. The provision of all human rights and citizenship rights to intersex people.
6. The provision of access to one's own medical records and any documentation, and the affirmation of the intersex person's right to truth.
7. The acknowledgement and redress of the suffering and injustice caused in the past.

The Forum urges the United Nations to take on board intersex rights in its human rights work. Other regional and national human rights institutions are called on to address the human rights of intersex people in their work and in turn call on their respective governments/institutions to confirm them.

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<sup>8</sup> | Lesbian & Gay Liberation Front e.V. (2004): International Conference on LGBT Human Rights in the framework of the 1st World Outgames from 25.07.- 05.08.2004 in Montreal. URL: <http://www.declarationofmontreal.org/DeclarationofMontreal.pdf> [25.07.2013].

<sup>9</sup> | [http://www.ilga-europe.org/home/news/for\\_media/media\\_releases/intersex\\_forum\\_2012\\_media\\_release](http://www.ilga-europe.org/home/news/for_media/media_releases/intersex_forum_2012_media_release) [25.07.2013].

Human rights organizations and LGBTI specific organizations are expected to give visibility and inclusion to intersex people and their human rights concerns. OII Francophonie, the francophone section of the International Organization of Intersex People, has supported this declaration but points out that hormone substitution therapies aiming at normalizing modifications of the body should be classified in the category of the questionable further medical treatments.<sup>10</sup> Furthermore, the increasing rate of abortion of fetuses with intersex diagnosis is regarded with great concern, since here eugenic social effects are feared. Further demands are that the persons concerned are made familiar with the arguments of groups critical of pathologization and can contact them and also have at all times total access to their medical file, i.e. concerning the practices they are subjected to, as well as the medical evaluations about their body qualified as 'ambiguous'.

The special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment of the UN human rights commission, Juan E. Méndez, refers in his report of February 2013<sup>11</sup> for the first time to physical modifications that are performed without the consent of the persons concerned and qualifies these as torture. In 2012 the Swiss ethics commission (NEK-CNE) in the field of human medicine has positioned itself against genital mutilation and recommends, as a principle for dealing whose sex development vary from the norm, not to initiate sex determining treatments that have irreversible effects and can be postponed. the child or person person should decide for her/himself. A psychosocial indication alone is in the view of the NEK-CNE not sufficient to justify such a procedure.<sup>12</sup> In the Australian federal state of Victoria in February 2013 an advisory group of medical experts and representatives of intersex people advocated the use of the term 'intersex'. But it must be emphasized that not all people with an intersex condition/constitution identify themselves as intersex, only because some of them do, and that not everyone regards his/her condition as intersex or even as a condition.<sup>13</sup> As a result of the Consensus Statement on Management of Intersex Disorders (Lee et al. 2006) the international medical community has shifted its nomenclature from her-

**10** | OII Francophonie (2013): Second forum intersexe international de l'ILGA 2012. Communiqué de presse. URL: <http://oiiifrancophonie.org/156/second-forum-intersexe-international-de-ilga-2012/> [25.07.2013].

**11** | Méndez, J. (2013): Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. United Nations. General Assembly (ed.). URL: [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53\\_English.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf) [25.07.2013].

**12** | Nationale Ethikkommission im Bereich Humanmedizin (NEK)(2013): 'Intersexualität': Das Wohl des Kindes steht an oberster Stelle. Medienmitteilung. URL: <http://www.bag.admin.ch/nek-cne/04230/index.html?lang=de> [25.07.2013].

**13** | State of Victoria, Department of Health (ed.) (2013): Decision-making principles for the care of infants, children and adolescents with intersex conditions. URL: [www.aph.gov.au/DocumentStore.ashx?id=d071fb-da-68aa](http://www.aph.gov.au/DocumentStore.ashx?id=d071fb-da-68aa). [25.07.2013].

maphrodite and intersex to the newly coined term 'Disorders of Sex Development'. However, intersex activist groups, supporters and academics have voiced critiques of this change. Intersex should no longer be referred to as a disorder or condition/constitution, since it is rather a genetic, chromosomal or hormonally-related human variation. In the light of this terminological disagreement the term 'intersex condition' is being used more frequently.

## CONCLUSION

Since intersex people have started speaking up in the 1990s they were able to acquire a certain visibility thanks to the dissemination of gender theories and their integration in feminist movements as well as LGB and finally LGBT movements. Some of them have organized themselves in patient association, others in various protest movements, in their majority within organizations that advocate the rights of sexual minorities or feminist goals. Initially, their discourse was systematically delegitimized under the guise of lacking objectivity by biopolitics, which in turn positioned itself as the only objective authority. They were also accused of reporting only personal (and thus insignificant) experiences which were merely expression of a mental disorder from which they suffered as opposed to a supposedly silent majority happy with its fate, which until now no scientific study has been able to map.

Considering the juridification of the intersex issues of inter-sex/gender-related constitutiveness as well as the testimonies, situated experiences<sup>14</sup> and scientific publications from the perspective of intersex people, the boundaries have shifted from a demand often mistakenly interpreted as communitarian, to a veritable human rights concern, which, against the background of hormonal-surgical mutilation, joins the fight against torture and ritual clitoridectomy. The only difference between a ritual clitoridectomy and a hormonal-surgical sex assignment – be this a non-consensual medical mutilation or another physical modification of intersex bodies – lies in the motives for the deed. In the first case the reasons are of a supposedly animist and medieval nature, and in the second scientific. But in both cases there is torture, mutilation and traditional, cultural practices in the name of a third party (god or society). What is surprising is the fact that ritual clitoridectomy are regarded in the West, where these practices are marginal features of immigrant ethnic groups, as mutilation and torture that can be brought before the French jury court (see

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**14** | Internet Encyclopedia of Philosophy (IEP): Feminist Standpoint Theory. URL: <http://www.iep.utm.edu/fem-stan/> [08.09.2015].

§ 222-9 and 222-10 of the French penal code), but that the legislators do not seem to recognize mutilation and torture in the systematic mutilation of intersex children. The exotic object is punished, the medical fact is untouchable: this is undeniably ethnocentrism, the racist, sexist and homophobic result of a biopolitics which due to the potential loss of its dominance in the field of knowledge production, of power, as well as material gain is not able to question itself. In that it is helped by a civil society which mainly remains passive as it is kept ignorant about medicine's current practices. The cause of this ignorance is the silence about torture and genital mutilation institutionalized by biopolitics, while intersex issues are hardly taken notice of due to the permanent reproduction of heteronormativity in Western societies.

In this sense the issue of intersex is not a communitarian concern, but a tool for the emancipation of the masses. The increased visibility of intersex people, of both their corporality as well as the varied identities they can be associated with is one of the crucial basic conditions for the emancipation of all those who are not male/man/heterosexual. Inter-sex/gender-related constitutiveness does not mean the end for men, women or heterosexuality, but rather offers the foundation of a new awareness of sex and gender. In other words societal alternatives to heteronormativity offer all people a foundation of awareness of their own sex/gender affinities and thus new possibilities of acceptance of their bodies, their sex, and their sexualities. It is therefore a matter of being able to make the statement, for instance, "I am female/a woman/heterosexual" (which is rarely made since it is supposedly self-evident) in full awareness and not as a pure routine. Not one single element in the debate about intersex denies the existence of male-heterosexual men or other categories permitted by society. There merely exists something else, something equally normal, and in this area of possibilities all humans can evolve.

Intersex should also be put urgently and immediately on the political agenda of countries such as the Grand Duchy of Luxembourg. Here the debate must not limit itself to the purely legal level, but has to reach into all sectors of society and primarily into the education system, by including intersex in the corresponding curricula of schools and medical training in collaboration with the persons concerned and from an affirmative perspective.

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*Money, J.* (1994 [1968]): *Sex Errors of the Body and Related Syndromes. A Guide to Counseling Children, Adolescents, and Their Families.* Baltimore: Paul H. Brookes, p. 132.

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# Medical Resistance to Criticism of Intersex Activists: Operations on the Frontline of Credibility<sup>1</sup>

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*Janik Bastien Charlebois, Vincent Guillot*

## SUMMARY

Since its establishment in the early 1990s the intersex movement has been attempting to enforce the respect for intersex children's human right to physical integrity and self-determination, as well as the non-pathologization of intersexuality. However, this has met with strong resistance from the medical community which prefers to reject criticism as subjective and unfounded. Credibility is a central issue in this debate, but it is rarely openly addressed. If the medical profession puts so much store in the quality of its analysis, what happens if we take a closer look?

## INTRODUCTION

"The birth of a child with ambiguous genitalia constitutes a social emergency." This statement is taken from the recommendations of the American Academy of Pediatrics from the year 2000 (p. 138) on dealing with children with atypical sex characteristics. It illustrates preconceptions on our social system – an area, however, for which medicine has developed few if any analytical instruments, having consistently kept the subjective social sciences at a distance. In reaction to the criticism of adult intersex people who have now the means to speak their minds about the medical interventions prescribed for them, some doctors, psychiatrists or psychoanalysts are developing a counter-argumentation that subverts the credibility of intersex activists and aims to reinforce their

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<sup>1</sup> | Original in French.

own position as carriers of disinterested and objective expert knowledge (see Aaronson 2004; Chiland 2008; Meyer-Bahlburg 2004).

As social scientists, we want to examine the core arguments with which the medical community continues to pathologize persons with a sex they deem 'ambiguous' and attempts to brush aside the criticism of a number of intersex activists. Since in our view scientific rigor calls for making visible the situated standpoint from which we develop our thoughts, we would like to point out here that the first author of this contribution combines sociological expert knowledge with a situated experience as a politicized intersex person who was subjected to the medical normalization process.<sup>2</sup> The second author is also a politicized intersex person who in the course of over a decade has acquired comprehensive experiential knowledge, which she has formalized and documented.<sup>3</sup> She holds a Master in Gender studies. We would however also like to emphasize that the position of an intersex person is in our view no more subjectively coloured than that of non-intersex people. The latter can also be aiming to defend their own interests and fear the consequences of our political ascent, for instance when urologists and endocrinologists see their financial interests compromised, as has already come to light (Davis 2011).<sup>4</sup> Furthermore, non-intersex people cannot completely grasp the realities of intersex people, since they are not confronted in their everyday lives with the various elements that these realities are based on. Claiming to be objective is nothing more than a hollow self-ascription of credibility that is only founded on its performative assertion.<sup>5</sup> To this claim we prefer intellectual rigor, which requires a capacity for reflexivity, honesty, and transparency about our research process and results.

## Paradigmatic deletion of intersex in medicine and protest movements

Even though there are some differences in medical approaches to intersex people depending on country and institution, certain assumptions and practices predominate throughout. The Hopkins paradigm essentially formulated by John Money in 1955 was widely accepted in the so-called west until the end of

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**2** | Situated standpoint is here used as a term for a theoretical concept. See Harding, S. (Ed.) (2004): *The Feminist Standpoint Theory Reader*. New York/London: Routledge.

**3** | Observatoire Des Transidentités, ODT: Independent information and analysis website on trans, intersex and gender issues. Besides the permanent staff (the ODT team) it relies on a network of actors in various areas of expertise, partner associations and academics. Once a month an article by a writer is published. URL: <http://www.observatoire-des-trans-identites.com/> [05.09.2013].

**4** | This statement may sound shocking, but it has been conveyed to us by three different sources who are in contact with doctors and who have heard such concerns from practitioners in Germany, France and the United States. Davis (2011) has documented such statements in interviews with doctors who treat intersex children.

**5** | This topic has already been addressed by many scientific investigations. Due to lack of space we cannot reproduce them here.

the 1990s. According to this paradigm, both the biological sex and the social gender are malleable, but it is crucial that a child's body fits medical norms for male and female, and that he/she develops a 'matching' traditional male or female gender identity and behavior to ensure his/her positive psychosexual development and protecting it from rejection by its peers. But this sex/gender-related malleability, so the argument, only exists in the first two years of life, which is why early surgery is necessary. With the assumption that any uncertainty about the assigned sex/gender would limit the parents in their ability to rear their child in the corresponding social gender and cause confusion in the child, it is recommended to share only partial information with the parents and leave the child completely in the dark (Money 1994 [1968]). Early surgery is also – and sometimes primarily – recommended to relieve the suffering of the parents who are supposedly clueless about how to deal with their unusual child and would like nothing more than for her/him to develop like a normal girl or normal boy (Aaronson 2004; Holmes 2008, 2011; Karkazis 2008).

In the 1990s the first generation of persons medicalized according to the Hopkins paradigm became adults. Therefore, they are now in a better position to voice their impressions and experiences. Contrary to the wishes of the medical practitioners acting according to the Hopkins paradigm, a number of them have succeeded in getting access to information about the surgery performed on them, to assess what has happened and in some cases making contact with other persons with similar experiences. (Gosselin 2011; Holmes 2008; Kessler 1998; Still 2008). In the social sciences this making contact is considered the crucial element for the development of a social group. Making contact enables people to talk about themselves, to invent their own words, to analyse shared or similar experiences as well as sometimes design alternatives, and in a next step, formulate demands. In the analyses of intersex people who actively demand enabling full consent to the respective treatments or the depathologization of the great variety of sex/gender-related bodies, one finds some theoretical principles of feminist researchers, activists of the women's health movement, lesbian, gay, queer and trans researchers.

These groups did much to initiate social change on various levels, to increasingly question medical authority and address the cultural foundations of its practice, and without them the recent intersex movement would not be as strong as it is (Karkazis 2008). In addition, intersex people have even shown great creativity in shaping their criticism: they have combined artistic productions with the publication of essays and theoretical observations, they are

represented in all social spheres and active on all continents. Through their involvement and the dissemination of their perspectives they are gaining more and more strategic supporters such as parents, sympathizing clinicians, ethics experts, jurists, researchers, students and artists. In the last three years, around 13 international treaty bodies, NGOs and States have spoken out in favour of the demands of intersex persons or put them into law. Among them the Swiss national ethics commission in the field of human medicine, the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez (A/HRC/22.53; 2013), the Council of Europe through its 1952 on Children's right to physical integrity, the UN Committee on the Rights of the Child (CRC/C/CHE/CO/2-4), the Maltese act. XI forbidding non-consensual, non life-saving medical interventions on intersex children, and the UN High Commissioner for Human Rights (A/HRC/29/23), to name but a few.<sup>6</sup>

### Medical resistance

Exchange with the medical community on the other hand is less productive. Since the very beginning, the majority of doctors have considered the demands of intersex people as irrelevant. The two main arguments for this refusal are first, the alleged emotionality or lacking rationality and scientificity of the intersex activists' discourse, and second, the disregard on the part of the supposedly small minority of intersex activists of the interests of an overwhelming majority of people who, though being subjected to normalizing surgery and hormone therapy without their consent, are purportedly nevertheless very happy with the results. Accusations such as lack of rationality and scientificity of intersex activists claims, along with the way doctors describe these activists, are not very complimentary. Some call them zealots, like John Gearhart does in an interview in 1996 with N. Angier for the New York Times, as green-wellied loonies<sup>7</sup> (Toomey 2001: 39, quoted from Karkazis 2008), as tortured souls (Chiland 2008), or as egocentric (Tremblay, 2014). They are accused of relying only on their passions, having no hard data and not being able to present any scientific research findings to refute the assertion that they constituted an exception in the mass of persons happy with their fate. Likewise some of these doctors have made the following remarks (we quote here excerpts from interviews by Karkazis (2008) with various surgeons):

<sup>6</sup> | The corresponding statements are available in French on the website of OII-Francophonie: URL: [www.oii-francophonie.org](http://www.oii-francophonie.org) [15.08.2013]. See contribution by Vincent Guillot in this publication.

<sup>7</sup> | Green-wellied refers to the green Wellington boots worn by persons regarded as hippies or ecos.

"ISNA is the disaffected few, but there's all these happy women out there who've had babies. They're the quiet majority." (Dr. S.) (Karkazis 2008: 266). "These people are very angry. The patients who are happy don't want to be spoken to; the parents don't want it. They say 'That's in the past, we don't want to discuss it. My kid is well adjusted. Everything is fine.' (Dr. O.)" (Karkazis 2008: 266)

In 2004 Meyer-Bahlburg et al. published the findings of a research project which examined via questionnaires in how far patients were satisfied with the medical approach their treatment was based on. Although the questions were phrased in such a way as to elicit an approval of the medical perspectives (Holmes 2008), two members of the journal's staff threw their support behind the article's contents in a commentary reproduced in the same edition. One of them, Aaronson (2004: 1619), states:

"For much of the last decade those called upon to advise on the management of an infant born with ambiguous genitalia have been under assault from patient advocates who have vociferously maintained that feminizing genitoplasty is a mutilating procedure. [...] Consequently, we are now in a state of virtual therapeutic paralysis, which does no service to the many parents who ask that something be done to normalize the appearance of their infant's genitalia."

The comments are surprising: Why does the medical community introduce such heated statements concerning the treatment of intersex people if it purports to develop its practices and treatment standards according to supposedly disinterested, objective and rationally conducted research? This of course is a purely rhetorical question because this assessment of intersex activists has no influence anyway on the confirmation or refutation of the Hopkins paradigm. Unless the doctors' aim here is to discredit them through the use of *argumentum ad hominem*. By depicting the activists as aggressive and impulsive – or even as zealots, tortured souls etc., the doctors elegantly avoid their responsibility to examine their own discourse, experiences and arguments and fail to deliver answers when the consequences of their actions come under critical review. Such a denial of alternative viewpoints – which at its worst is based in a non-representation of these standpoints, and at best on a sophistic oversimplification in the sense of a straw man argument – invalidates *de facto* the doctors' claim to objectivity, if such a thing as objectivity is at all possible. Here one could argue that we are dealing only with individual statements that do not reflect the official stance. But such statements are also found in scientific journals in which emotional outbursts are frowned upon. Aaronson (2004) for instance published his comment as editor of the official Journal of the American Urological Association.

### **Ignoring the interests of a broad, satisfied silent majority?**

The wrathful positions of intersex activists are contrasted with a silent mass of intersex people who see no fault in the Hopkins paradigm. The activists are accused of representing their own position and thus that of a minority, providing no hard data, and merely personal impressions and anecdotes. Indeed, only a small minority of persons whose sex is described as atypical by medicine makes its voice heard publicly – but this is the case in every social movement. Also, there is disagreement among intersex persons concerning the paradigms that should be used for understanding our lives. Among those who have experienced the phase of socialization with peers there seems to be a general difference between political activists and members of patient groups (Karkazis 2008; Spurgas 2009; Still 2008). Even if the standpoints of these two groups differ concerning the rejection or approval of an intersex identity and pathologization, they still agree on their criticism of medicalization without previous consent. In addition, some intersex activists are particularly careful not to disadvantage other intersex persons by their stances and to remain in contact with patient groups. We don't expect from everyone affected by medicalization that they define themselves as an intersex person or as someone beyond the sexes – which does not exactly correspond to our understanding of intersex identity<sup>8</sup> – contrary to all prejudices to this effect. Neither do we want to impose an identity beyond the sexes on intersex children, but merely ensure that they have the possibility to determine for themselves which identity they have. We do not demand that all intersex persons should refrain completely from physical modification, but rather that they should be able to determine themselves the modalities of such surgery or hormone therapy. However, with regard to the politics of silence and the medical interventions performed without the consent of the children one could say the following:

If the intersex persons concerned were really of the opinion that this is a better approach which allowed them to enjoy better psychological development, the logical consequence would be that they are less vulnerable or injured than we are, and it would also be easier for them than for us to mobilize. Their critical voices against the demands which they would regard as harmful for the majority of us would also be more numerous.

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**8** | The intersex identity mainly expresses the consciousness of having one's body's sex characteristics subjected to medical invalidation, regardless of one's gender identity. It cuts across diagnoses, since the invalidation process and the protocols used on intersex people share many common denominators. To some extent, it is often political, since people who use it are critical of medical judgment passed on them, and affirm the beauty of physical diversity. Some intersex people, however, also have another gender identity as a man and woman and will use 'intersex' to designate this other identity as well. In an effort to disambiguate, some intersex people identified as non-woman, non-man use a 'herm' gender identity.



In December 2012 the Second International Intersex Forum organized by the International Lesbian, Gay, Bisexual and Trans Association (ILGA) brought together 37 representatives from 33 organizations of intersex persons or their allies. Even though their aims and perspectives diverge they formulated a joint declaration which denounced the pathologization of intersex persons.<sup>9</sup> If the blissful, satisfied majority really existed it would have been visible in greater numbers.

Tamar-Mattis (2012), who regularly engages in awareness-raising for doctors, psychiatrists and lawyers involved in the treatment of intersex persons, remarks:

“There’s a theory floating around the world of medicine that goes like this: while it is widely known that patients with disorders of sex development (DSD) [sic] are unhappy with the treatment they have received – cosmetic genital surgery, unwanted hormone treatment, and humiliating genital exams top the list – they can be safely ignored because there is actually a silent majority of patients out there who are doing just fine. This is a comforting idea. It justifies the mistakes of the past, and it allows current practice to continue without all the discomfort of change.”

“Those of us who work in DSD advocacy hear the theory of the satisfied silent majority all the time. But no one can find them. After almost two decades of patient advocacy and active debate, decades in which hundreds of affected people have spoken out against the treatment they received, not one person with a DSD has spoken out publicly to say that normalizing treatment is just great. Not one.”

Thanks to a broad network in the internet intersex persons and persons identifying themselves as DSD patients were able to collect valuable knowledge about the experiences of others. Thus they could also establish the non-existence of this ‘silent majority’ and respond to the doctors clinging to this myth (Karkazis 2008: 266):

“Let them do their own studies interviewing all the happy intersex people out there, recruiting them through a special themed happy campaign to indicate that they are looking for satisfied people who want to fade into the woodwork, not carp and complain about monster doctors and their unhappy lives.”

What is surprising is the admission of doctors found in numerous scientific articles and joint declarations that there are no data on the results of the Hop-

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<sup>9</sup> | One can access the third statement, which includes the second, at this address.  
URL: <http://oiieurope.org/public-statement-by-the-third-international-intersex-forum/> [08.09.2015].

kins paradigm or on later performed surgery. This is the case with an article authored by medical professionals regarding themselves as intersex experts (2006: 496):

"In terms of psychosexual management, studies are needed to evaluate the effectiveness of information management with regard to timing and content. (...) It is essential to evaluate the effects of early versus later surgery in a holistic manner, recognizing the difficulties posed by an ever-evolving clinical practice. The consensus has clearly identified a major shortfall in information about long term outcome."

There is no evidence that non-operated adolescents who had no surgery are subject to more harassment than ones who have.<sup>10</sup> There is no study that could attest to an improvement of the parent-child relationship as a result of surgical procedures, or an impairment if left intact. The advocacy of secrecy is equally unfounded. Tabooing, silence and half-truths can be identified as such. The parents cannot ignore the physical integrity of the child and its condition at birth. Despite the call for early medical interventions these have in many cases to be repeated in the course of childhood, so that they become ingrained in the child's memory. It is in fact these surgical and hormonal procedures that cause the trauma, because they convey to the child that its genitals – while causing him/her no pain nor discomfort – generate such aversion in their parents that corrections have to be made, even before it can deal with it itself (ISNA document, quoted from Holmes 2008: 56; Roen 2009). The child notices that it has something unspeakable that arouses its curiosity, which spurs it on a quest to gain the information on what has happened, but at the same time puts it at risk of experiencing a deep sense of betrayal by his/her parents and the doctors (Karkazis 2008; Intersex experiential knowledge).

The very ethics at the basis of the pathologizing approaches can be questioned. Holmes (2008), Kessler (1998), Roen (2009) and Streuli et al. (2013) argue that the parents consent to the surgery on their children primarily because intersex is portrayed by doctors as a medical disorder or illness – even when there is no danger for the health of the child. In this respect one can say that the parents are misled (Holmes 2008: 54; Kessler 1990).<sup>11</sup> Not only do the doctors make it impossible for the parents to perceive their child as healthy, but in their explanations they also rely on the assumption that the child has

**10** | Here the testimonies by Hida Viloria und Nthabiseng Mokoena as unharmed intersex persons provide powerful examples for the possibility of self-development without surgery and hormone therapy.

**11** | Also: "The question I am posing is whether or not this way of explaining intersexuality constitutes a failure to provide all the necessary information required to obtain consent that is truly informed" (p. 55).

to be either a he or a she, without leaving room for a development as s/he or neither-nor. (Holmes 2011).

In order to establish an approach of voluntary consent doctors need to rectify parents' expectations and beliefs concerning sex/gender diversity. In addition one has to ask oneself how far children in particular are able to give a truly free and fully informed consent under a paradigm that depicts its sex/gender-related constitutiveness as an error (of nature), disorder or syndrome. Some people might feel confused by this criticism of pathologization. But the assumption that intersex persons have an incomplete, over- or under-developed, deficient, dysfunctional or abnormal sex is based on a teleological perspective that has substituted God with nature – with the belief in an intention that is read from supposed aims, goals and functions (Bastien Charlebois 2011). In addition, this attitude prevents a thorough analysis of sex development. (Voß 2010).

In 1999 a group emerged from the American Urologist Association, comprised of medical specialists and 'patients' advocates'. Under the name NAFTI (North American Task Force on Intersexuality) it has set itself the goal to conduct studies on the long-term effects of surgery on the patients' psychosexual condition in order to remedy the lack of information in this regard.<sup>12</sup>

However, only a few years later this group had to end its activities for the following main five reasons: obstacles in the procurement of funds, failure to find a definition of acceptable ethical parameters for such research activities, difficulties in reaching the patients, problems with the representativity of data and fears of being criticized by intersex people and being sued. Before solid and representative data can be collected the silence around the situation of many intersex patients would have to be broken. How should the well-being of people who don't yet know that they have been subjected to surgery be measured without informing them about it? They cannot wholly consent to such a study since they have no detailed information about their past. It also seems to be impossible or too difficult to locate adult patients. Many have moved and no longer have any contact with clinical doctors. Furthermore, there is the difficulty of finding persons who have had bad experiences with surgery and no longer trust doctors. The very title of the research project could put off certain people, depending on whether the terms 'intersex' or 'DSD' are used. Finally, numerous senior physicians have voiced reservations about opening medical files of their patients, since they fear being held accountable by an entire group of people or being sued by them (Karkazis 2008). The politics of silence

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**12** | Further goals were: Determining rules for the support of intersex children, considerations concerning the ethical dimensions of current treatment standards and development of new principles for medical practice.

makes the medical practices irrefutable. It is not only bad faith but also naive to continue to adhere to the Hopkins paradigm and at the same time reject the experiences and analyses disseminated by intersex people, despite the fact that there is serious lack of evidence for the desirability of this paradigm and it is impossible to formally refute its position.

Furthermore Karkazis (2008) reports that the doctors interviewed by her resort themselves to anecdotal information. They either draw on their own clinical experience or that of their colleagues. And the latter are given more credibility than those persons who are directly affected by the medicalization. In this regard the case of John/Joan is particularly significant since it has contributed – despite being a single case – strongly to questioning the hypothesis of the malleability of the social gender. The following quote illustrates how a doctor can legitimize not working in a scientifically correct manner and rely on his general impression of a patient (Karkazis 2008: 278):

“I don’t need studies. I have my own clinical practice where I can see long-term outcomes when people come back and talk to me about their outcomes. A girl just came across my desk today I’d done a bowel vaginoplasty on. It was an intersex baby and she does very well – she’s a gender-reassigned individual, [and she] does beautifully.”

As Karkazis (2008) correctly underscores, according to which criteria does he assess that she does beautifully? According to his or hers? Does ‘she does beautifully’ mean that there were no surgical complications? That she is happy? That she has a female identity? That she has a sex life? That she is satisfied with the results of the surgery? How then is ‘she does beautifully’ defined? Could it also be that doctors filter information because they fear that they have failed or caused harm to a person? We would also add that given the doctors’ position of authority, many intersex persons would find it difficult to voice their discomfort, doubts or criticism regarding the surgeon’s actions. This, at the very least, has been the experience of the main author of this contribution.

### **Injured ego versus broken integrity – an outlook**

A thorough analysis of medical positioning with regard to children with atypical sex characteristics must comprise an examination of the assumption it is frequently based on, i.e. that it is possible to act in a person’s best interest without their consent. In effect, this best interest implies that these other persons, who are capable of making their own decisions, are not listened to and not

acknowledged. Who can say whether an operation or a surgery was successful or not, if not the person concerned? For the medical authorities success can lie in the fulfilment of an esthetical norm. For intersex persons success does not necessarily mean that they are assigned to one gender in which they feel happy but rather that they retain their physical self-determination as well as their sexual and orgasmic responsiveness and know themselves to be desired and desirable. Some doctors and parents may have seen medicalization without the child's consent as the best way and may have been surprised to perceive the regret and the strong disapproval from intersex persons. For them it is undoubtedly easier to think that these negative results merely reflect bad treatment practices of their colleagues and not a fundamentally flawed approach. The notion that good intentions lead to good results or protect from criticism and from questioning one's own actions is very common in our society. Good intentions were indeed attributed to many actions with negative consequences. It is our view that good intentions lead to good results when they emerge from a full recognition of the capability of others to define their own aspirations. But this implies listening to others, acknowledging them as credible and not acting against them. From us as professors, researchers or professionals listening in this way requires the ability to doubt, the willingness to criticize ourselves and a humble attitude. As knowledge producers we command an enormous position of power. Criticism can harm – but it is important not to lose sight of the context in which it was formulated. Who is in the position of power within this dynamics? Which risks are doctors exposed to? Do these risks weigh more heavily than those intersex persons face, i.e. the violation of physical integrity, the degradation of their being, the emergence of serious feelings of shame, the loss of the ability to have an orgasm or the impairment of their sexual responsiveness, the loss of trust towards their parents, the isolation, the non-recognition of their injuries or the denial of their existence? The medical community will not be able for much longer to sustain the illusion that we do not inform ourselves as social actors and examine and analyse the medical discourses they build around us, that we do not develop our own ideas and critical analyses, and are not represented in the institutional spaces in which expert knowledge is created. And perhaps we will improve the situation, since the visibility of intersex persons will contribute to the dedramatizing of our existence and showing its beauty.

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## **CHAPTER 6: EDUCATION/PRACTICES OF SUPPORT**



# The Parent-Child Attachment and its Influence on Children Developing beyond the Binary Sex/Gender Norm<sup>1</sup>

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## SUMMARY

This contribution begins with two initial hypotheses and then goes on to present a number of fundamental assumptions of the attachment theory. This is followed by a digression each on normalization and on the rhetoric of difference. The contribution concludes with a discussion of the question what a child needs to be able to live its idiosyncrasies and differences in a positive way.

## INTRODUCTION

There can be little doubt about the significance of the parent-child-relationship for the development of a human being. The topic has been the subject of extensive research and the relevant studies have been consistent for decades (Grossmann 1988; Grossmann et. al. 1997; Grossmann/Grossmann 2009; Laucht 2003). The findings of the attachment theory as it has developed since Bowlby (1955) and Ainsworth (1985) have in general met with little criticism that can hold its ground. While Bowlby was still very much fixated on the mother as the only possible attachment figure, we know today that the function of attachment is neither linked to sex/gender nor to biological parenthood (Grossmann/Grossmann 2009). Furthermore, the crucial significance of the parent-child attachment for the development of a human being is undeniable (Grossmann/Grossmann 2009; Strauss 2008). Here, this article might as well end with reference to the relevant studies.

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**1** | Original version in German.

However, what do the scientifically based findings of attachment research signify for the development of so-called LGT<sup>2</sup> children and adolescents, i.e. for homosexual adolescents/children or those whose self-positioning regarding their sex/gender does not agree with the sex/gender assigned to them at birth?<sup>3</sup> The recurring question will always be: which insights does the attachment theory provide? Moreover, extrapolated from this: What does this mean for children who develop differently, beyond the dualistic sex/gender norm and mandatory heterosexuality? These are justified hypotheses that have yet to be tested scientifically.

### Initial hypotheses

The first initial hypothesis concerns the side of the parents. A secure parent-child attachment is an excellent basis for parents wishing to support their child on its own individual path.

As a rule parents have their child's best interests at heart. What these are is something they as well as important others (grandparents, teachers, neighbors, coworkers etc.) think they already know before the child has been born. It is only when they are actually together with their child do they become aware of what it really means to have such a fragile and tiny human being entrusted to their care, and provided the parents are sensitive enough they will also soon discover what is best for their child. There was a time when parents, grandparents, teachers, neighbors, coworkers and doctors believed that it is best not to breast-feed the child.<sup>4</sup> In my practice as a psychologist I always encounter mothers who even today confess with a guilty conscience: "But it was important for me to breast-feed my child, and I did." These mothers have persevered, have stood up for their child against the zeitgeist prevalent at the time. From where did they take their strength? Mothers often respond to this question of mine with "The love for my child gave me the strength." Experts also describe this love as a sensitivity for the child's signals and the resulting attachment. Parents need a similar strength when they want to stand up for their homosexual child or when it does not correspond to the usual sex/gender norms. The zeitgeist, society, grandparents, teachers, neighbors and coworkers have their own ideas. The widely held view is that what is supposedly best for the child is adjustment, being like everybody else.<sup>5</sup> The parents also here need the sensitivity to comprehend the signals coming from their child and the attachment gives them the strength to remain on their child's side or always return to it.

<sup>2</sup> | Lesbian, Gay, Trans.

<sup>3</sup> | The bisexual adolescents included in the concept of LGBT are not considered here.

<sup>4</sup> | Personal reports by mothers in therapy. The WHO recommends breast-feeding children until the age of two. But that too rarely happens in Luxembourg and requires a great deal of self-confidence from the mothers.

<sup>5</sup> | During supervisions in Luxembourg I frequently heard that it is the task of the educator to teach the child to function and conform. These statements come from educators who have been in the profession for some time as well as from educators who have graduated one or two years ago.

So far the first hypothesis: A secure parent-child attachment is an excellent basis for parents wishing to support their child on its own individual path. The second initial hypothesis concerns the side of the child. Secure attachment is for the children the best basis for developing their own potentials and the best protection against destructive effects of pressure to conform and possible hostilities, exclusions and discriminations.

If you want to build a stable house, you need a good foundation. For the human being this foundation is a secure attachment. If that is guaranteed the child can turn to more exciting things, namely life, can discover and develop its potentials. In addition, here the child needs support and assistance. However, for the child to be able to discover and develop its potentials in the first place secure attachment is essential. Otherwise, the child is too busy trying to figure out whether the relationship to its parents is stable, whether it is really loved or whether it has to protect itself from injury. Secure attachment forms a security net what cushions the small and large imponderabilities of life. Whether it is the pet that dies or the parents that separate, or other small and large dramas in the child's life – a secure attachment offers protection. This protection then presumably also helps when dealing with pressure to conform, with hostilities and exclusions.

At this point, I would like to emphasize that I assume that secure attachment plays a crucial role for the child's healthy mental development. If this attachment is unstable, however, there is the chance that the necessary support of the child is less fruitful and helpful than it could and should be in the case of a secure attachment.

### **Definitions and scientific basis**

First, I will give a brief overview of that what is regarded as secure attachment and which effects it has on the later life. Secure attachment: All research on attachment is based on John Bowlby (1955) and was further developed by Mary Ainsworth (1985). In the German speaking countries, key figures of this research are Klaus and Karin Grossmann (2009) and Karl Heinz Brisch (2009). Attachment is the emotional tie that develops between an adult, usually a parent, and an infant or toddler. The quality of this attachment can differ greatly. The secure attachment is the quality that carries best, in the true sense of the word carries a person through her or his life. If a secure attachment is created in early childhood, the child will, later in life, achieve a higher degree of social competence, show fewer anomalies, develop a better cognitive ability and can fully realize its potentials.

We can therefore say that a secure attachment is the best protection against the imponderabilities of a child's life and in addition has a protective effect in adulthood. It is the security to be able, if necessary, to fall back on help and support. The toddler, which on the playground crawls away from its mother, pauses, turns to look back and continues on its way after a reassuring nod from its mother. Or the infant that climbs on its mother's lap after it has fallen and hurt itself. Here one should not equate attachment with love nor with having a relationship with the child. Love is surely part of it, and having a relationship is a precondition for attachment, but attachment is marked by continuity, intensity, depth and intimacy of the relationship. If parents – as I have witnessed – leave their 3 months old baby with the grandparents to go on a holiday then something is wrong. I also ask myself how a relationship of attachment can develop if the child, from two months onwards, spends 8-12 hours a day in the crèche, as is often the case in Luxembourg. In such situations, there is a greater risk of an attachment disorder.<sup>6</sup>

### **What prevents the development of a secure attachment?**

The lack of secure attachment means, among other things, insufficient support for the child when it develops beyond the so-called norm. In the following we will name a number of phantoms that often frequent the nursery and prevent a secure attachment from developing. The term 'phantom' is used here because we are dealing with invisible phenomena whose effect has to be regarded as dangerous. We can distinguish between phantoms I and II.

Phantoms I refer to those that have emerged from the mother's early childhood and can stand in the way of a secure attachment. These phantoms I in the nursery include the mothers' own bad experiences or of the person that spends most time with the child and is the principal caregiver. If this person herself has not experienced sufficient sensitive care as an infant and perhaps suffered from neglect, there is a great risk that she will not be able to meet the needs of the child in a sufficiently sensitive way. In addition, these can be the mothers' traumatic experiences of neglect in early childhood that lead to new enactments in the nursery.

Phantoms II refer to those that cannot be so simply traced back to the mothers' individual and specific experiences. These are rather general, mostly adopted guidelines of behavior and being that are projected onto the children. Not being able to be as I am. Subordination, the obligation to perform, fear of exclusion and accompanying pressure to conform, ideologies and religions as well as social pressure play a significant role here.

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6 | Bertelsmann-Stiftung (2007); Brisch, K. H., Hellbrügge, T. (2003); Stroppel, S., Weyer, K. (2007).

The more of these phantoms haunt the nursery the more they will know how to prevent the development of a secure attachment. Social pressure is one side; the other should be the true appreciation of differences, which is sadly often not the case. Diversity is invoked in an attempt to be politically correct, but more often than not this is pure rhetoric.

### Rhetoric of difference

There is increasing more talk of diversity management, and also gender mainstreaming and gender pedagogy<sup>7</sup> are increasingly addressed. But with initiatives such as these one has to ask how much diversity is really desired. How much difference do we want to bear, live, encourage? We all remember the advertisements of years ago which featured a row of men sitting in always the same uniform, called suit, and one dared to wear colored socks. This was an advertisement for diversity. In addition, this exactly is my impression of the diversity, which is just tolerated by large sectors of society. Conforming diversity as difference, which can perhaps show in the color of skin or in sexual orientation. However, with the uniform way of dressing – at least for men – there is no question of acceptancy, let alone tolerance or even habitus, when dealing with the so-called feminized behavior of men.

The following example from gender pedagogy is closer to the issues addressed: a few years ago, the Luxembourg ministry for women's affairs organized a lecture on gender-inclusive pedagogy. Employed in the ministry at the time, I suggested the title "Anna builds a tower and Paul paints his fingernails". This was rejected and ultimately the lecture was called "Anna builds towers and Paul knits a shawl". The homophobia and transphobia behind the decision is obvious. A boy may knit, but painting fingernails – that is taking gender pedagogy a bit too far.

I often feel the same with the much-invoked multicultural society. Here we get a child care institution championing multiculturalism and at the same time not allowing the children to speak their mother tongue. If they speak it nevertheless they are punished. What kind of appreciation for other cultures does this convey? Another pedagogical institution has codified in its concept that it is also open for people with a handicap. My question as supervisor how a wheelchair user would be able to enter the premises sparked a debate which revealed that it was possible without too much trouble to create such an access. However, co-workers were not prepared to give up their parking space that would have had to be sacrificed for it. On the one hand codifying in writing the openness towards handicapped persons, but on the other hand not implementing it in everyday

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7 | Ministère de l'égalité des chances (2012).

life is astonishing, to say the least. My questions stimulated further discussion and finally the passage about accessibility was removed from the concept for the sake of honesty. Diversity requires much more than rhetoric, it is a process that can be exciting if one is prepared to go along with it. But it is also a process that questions self-evidences, habits and securities and always shows us the boundaries of our own tolerance. Embracing it is sometimes exhausting and requires a certain amount of alertness in order to recognize, reflect and change one's own exclusive and norming behavior.

In a final example, I will show how little difference we actually allow. Children who play, jump, romp, who are not capable or willing to conform at the age of three, four and five to an everyday life that consists predominantly of sitting down, are medicalized. The diagnosis is ADHD (Attention Deficit Hyperactivity Disorder) and methylphenidate the drug of choice. The child is expected to function at school and in the care facilities, sit, preferably still, and play, preferably at the table, at best in the play corner. After all, we do want to encourage the abilities and potentials of the children, provided they don't disrupt the strictly organized run of affairs. More difference is medicalized away, then everyone proceeds in lockstep to washing their hands. Oh, hold on, with the little ones we call this, more pedagogically correct, making a train for washing our hands. The essence from my observations could be: when it says 'difference' on the package or in a concept then it should also be realized.

I would like to end this digression by emphasizing the joys and the gain in insight that embracing diversity yields. Today, I am always happy when I become aware of an old prejudice, when I stumble across my own boundaries and can shift these another bit further in the direction of more understanding, of seeing more, including more. Because I can only change those self-evidences, generalizations and prejudices that I know about, that I notice.

## **WHAT DOES A CHILD NEED TO BE ABLE TO LIVE A FULFILLED LIFE IN DIFFERENCE?**

### **Knowledge of the child**

The diversity of possibilities of life can be made clear to a child starting from birth. A very religious friend asked me once: "Don't you first have to explain the biology, I mean, the normal?" Such a question presupposes deviation, abnormality etc. I also used to say that – in the old days. But when our son asked me at the age of three whether he will become a woman later, my first reaction was



very close to that of my friend and I replied: “You’re a boy and will later become a man”. Since at that time I was already working on this lecture, I was not quite happy with my reply. Shouldn’t I have said that we’ll see about that later or even: “You can decide for yourself later”. That too would not have been very satisfying. To formulate all the complexity of the correct reply spontaneously in a way that is appropriate for children and pack it into the attention span of two to three short sentences was simply not possible. In addition, maybe it is not possible. However, what then? My temporary solution: in case he should ask again I will not reply but ask: “What do you think a woman is or a man?” or “Why do you ask whether you will become a woman?”

### **Openness of the parents and a climate of true appreciation of differences**

It may sound good, right and simple, but it isn’t. We have all grown up in a society in which there are and have been prejudices. We can consciously decide to put these ideas aside. For many studies still show (Stapel/Koomen 1998) that prejudices (also those we consciously reject – and some others we are simply not aware of) have their effect. This is shown for instance by the Implicit Association Test on all kinds of prejudices. The test can be found on the internet;<sup>8</sup> it deals with areas such as sex/gender, sexual orientation, religions, color of skin, disability. The test maps implicit associations with selected terms. As a rule, the reactions of people are significantly faster if the suggested associations correspond to the common clichés as, for instance, man and success. Even if we have explicitly worked on prejudices this does not mean that we are completely free of them. The only thing that helps here in my view is to perceive emerging prejudices and use them as an opportunity to get to know each other better. An “I’m tolerant and have no prejudices” is, as a rule, an extreme overestimation of oneself and a self-delusion that serves no one.

### **Supporting the child’s own path**

Recognizing, appreciating and offering possibilities for further development does not refer to the ballet class for two-year-olds or the music activities for toddlers. Supporting the child’s path requires also courage from the part of the parents. In many situations, the parents have to decide whether they want to support the child or attempt to avoid a possibly emerging complication. I myself have experienced a vivid example in my personal environment. On the kindergarten toy day when children can bring toys from home, our son filled his doll’s pram enthusiastically with diapers, nursing bottle and a change of clothes. We were, for a brief moment, confused and asked ourselves whether we should not

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8 | Implicit Association Test (IAT). URL: <https://implicit.harvard.edu/implicit/demo/> [14.07.2013].

try to divert and persuade our son to take along another toy. Our questions and thoughts went something along the lines of: "He's so proud and enthusiastic about preparing his pram, let's just hope it won't be spoilt for him." "Will he be made fun of?" "O dear, the son of a lesbian couple bringing along a pink pram ... with all the prejudices you can think of ...". In the end we let him take the pram and we braced ourselves for giving our son, possibly hurt and offended on his return from the kindergarten a morale-boosting pep talk. However, things turned out differently. The teacher reported that the pram was very popular, particularly with the boys. She said, maybe it was good that it was a boy who brought the pram, in this way the other boys could safely take an interest in the pram.

All parents want to support their child, but meeting the critical glances of mothers- and fathers-in-law and the neighbors and whoever is not always that easy. Parents do not have to have prior knowledge, openness or appreciation, but a secure parent-child attachment is the best basis for parents to be willing to adopt and develop them. A further example from my own biography may illustrate this development process on the part of the parents. As a little girl I resented putting on dresses. Every attempt by my mother ended in a struggle with tears and a foul mood on all sides. When I was around three the fights had stopped. My mother wanted above all her child to be happy and, for the most part, dropped the issue with the dresses. At the First Holy Communion there was a compromise between conformity and independence. I was to put on the dress for church and would be allowed to change immediately afterwards into a fancy pair of trousers. Seen from today, this is not an ideal support of the child. However, around 40 years ago this good compromise attempted to respect the wishes of the child. "I know you don't like the dress, and that's okay", this was one message, and the other was: "Important for me is that I don't want to have any stress with the teachers, grandma and the vicar, it's supposed to be a nice day for everyone." A few things have been mentioned now that parents can do to support their child.

A secure parent-child attachment thus generates the strength that parents need to stand up for their child and assert their influence on those institutions the child is exposed to, so that it can find a framework there that supports it in its being and development. The phantoms that have developed owing to own bad experiences of the parents at an early age are best hunted down and defanged during a psychotherapy. Ideally, psychotherapy should take place before these persons become parents. The phantoms that emanate from beliefs and social circumstances can be influenced and eliminated through self-reflection, self-experience, exchange with others, openness and curiosity. Standing up for

a child, supporting it, engaging in the necessary struggles with the child and, depending on the situation, for the child, requires considerable strength from the parents. These struggles include discussions with the teacher in the kindergarten, the teachers at school and possibly also with the doctors and others, for instance about whether one shouldn't purchase also other picture books in the kindergarten, such as "And Tango Makes Three", or discussing with the teacher that the son has chosen pink plush slippers and one expects her or him to support this choice, in case other children should make fun of it. The teachers should be made aware to statements and epithets such as 'Yuck, he's gay', 'fag/dyke' or 'tranny' and asked to not tolerate them and call in, if necessary, higher authorities in order to protect children exposed to such slurs. Another possibility consists in advocating more tolerance and acceptance among parents, at one's workplace and in society in general.

## CONCLUSION

The aim of this contribution was to emphasize that the two initial hypotheses are well founded. I will repeat them here again:

A secure parent-child attachment is an excellent basis for parents wishing to support their child on its own individual path. Secure attachment is for the children the best basis for developing their own potentials and the best protection against destructive effects of pressure to conform and possible hostilities, exclusions and discriminations.

Research is needed in order to support these hypotheses scientifically. In giving, a more specific form to the significance of discourses and their application to individual educational and pedagogical situations can serve to enhance them with more diversity and tolerance. Therefore, if the theories are applied in a way that is relevant to practice and an impulse is relayed back to the formation of theory via this application, then there is a chance of social change to the benefit of all human beings.

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# Transmitting Gender Competence in Biology Teacher Training<sup>1</sup>

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*Isabelle Collet*

## SUMMARY

This article deals with the most recent developments in teacher training for secondary school in the subject biology at the teacher training college in Geneva. The focus is on the question how the gender aspect can be appropriately addressed as a transversal study content and how pupils as well as teachers react to this study program.

## GENDER ASPECTS IN EDUCATION IN GENEVA

Since 1981 the Swiss Conference of the Cantonal Education Directors (EDK) of the Swiss Cantons recommends a joint education for girls and boys. This aim is supported by the federal law of 24 March 1995 on the equality of women and men which includes a demand for targeted policy measures for the equal treatment of girls and boys in education.

In 2005, integration of gender aspects in education became a clear political goal in the Canton of Geneva, after the governing council and the Director of Education had declared it a priority.<sup>2</sup> The Geneva university teachers took the municipal authorities at their word and demanded, together with feminist associations and the Swiss equal opportunities office, that obligatory gender-relevant courses be introduced in the training of all teachers when the new secondary school teacher training was incorporated in tertiary education in 2007. In this way the subject of gender was integrated in the training of primary and second-

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<sup>1</sup> | Original version in French.

<sup>2</sup> | République et canton de Genève: Instruction publique, culture et sport. 13 priorités pour l'instruction publique URL: <http://www.ge.ch/dip/priorite12.asp> [15.12.2013].

ary school teachers. In particular in the training of secondary school teachers there was to be no gender-relevant course outside of the general curriculum, so as not to create the impression that the subject of gender is an isolated element within education. Gender has to be recognized by the students as a key competence of their professional practice which they need to be able to mobilize at any time during their teaching activity and not merely as another curriculum subject (such as specific courses on sustainability, religion, citizenship etc.).

The students at the Institut universitaire de formation des enseignants de Genève (Geneva University Institute for Teacher Training) are confronted with the subject of gender in the first year of study in general subjects that address various aspects of the teacher's profession. In the second year of study the subject returns in the didactics seminar which aims at enabling the student teachers to analyse their subject area from a gender perspective.

The present text offers an overview of our approach to encourage future teachers in the biology didactics seminar to develop gender competences. Here we will notice that despite their master degree in biology, students are only rarely informed about the history of the biology of sex and are unaware that the representation of a binary sex is a historical construction. The deconstruction of this representation with illustrations from the 16th and 17th centuries serves as an introduction to the topic and enables a critical analysis of the illustrations used in biology textbooks. This helps to make clear which implicit statements these illustrations convey.

### **Insufficient gender competence of teachers**

Even though equal treatment of girls and boys in the schools of francophone Switzerland is a relatively young topic, it is, in the view of the future teachers of the Institut universitaire de formation des enseignants de Genève, today already fully ensured. Baurens and Schreiber (2010) also share this assessment. In the courses, students frequently experience the topic of gender as a rather abstract issue, since the majority of them is convinced that they conduct themselves absolutely identically, entirely independent of the pupils' gender (Mosconi 1994). The study by Collet & Grin (2011) makes clear that even though the students realize that there are still cases of unequal treatment of women and men in society they do not regard school as being the cause of it. Instead, they hold a number of immaterial, supposedly overpowerful entities responsible, such as the state, the world of employment, society in general, mentalities, traditions etc. The study also shows that students tend to accept the contents of the available textbooks or



other teaching material unquestioned and believe the issue of sexism is already solved here. We know, however, that the problem is anything but solved, despite some progress already achieved in this area (Détrez 2006; Sinigaglia-Amadio 2010; Tisserant/Wagner 2008). We can establish that the future biology teachers are very uncritical towards their own discipline, whose history they barely know and who don't have the necessary tools to question it from a gender perspective.

### A French debate as a didactic example

This development is situated in the context of a controversial debate which was triggered by the introduction of gender aspects in biology class.

In the gazette of 30 September 2010 the Ministry of Education supplemented the curriculum with a chapter titled *Becoming Man or Woman*, which deals with “distinguishing between socially conditioned sexual identities, sex/gender roles and stereotypes on the one hand and private sexual orientation on the other, taking biological circumstances and societal representations into account.”<sup>3</sup>

The massive protest from the ranks of the Catholic right that followed on this event led to a letter to the minister of education in which 80 UMP delegates demanded the deletion of the theory of sexual gender, which is defined as follows:

“According to this theory, human beings are no longer defined as men or women, but as practicing certain forms of sexuality: homosexuals, bisexuals, transsexuals. These textbooks therefore impose an unscientific philosophical and sociological theory according to which sexual identity is a cultural construction that depends on the environment people live in.”<sup>4</sup>

These protests raise the interesting question of who has the right to define scientific criteria. This aspect is also at the heart of the petition ‘Teaching gender – against an archaic censorship’ (in French: ‘Enseigner le genre: contre une censure archaïque’) in which a number of French scholars point out that

“in no way can it be the task of politics to judge the scientificity of research subjects, methods or theories. Only the scientific community can assess the work of its members [...] Analysing ‘prejudices’ and ‘stereotypes’ in order to question them is the core of every scientific activity. This is all the more necessary when we are dealing with difference between the sexes which even today are represented as natural to justify unequal treatment [...]”<sup>5</sup>

**3** | Gazette of the French Ministry of Education No. 9 of 30 September 2010.

**4** | Letter of 30 August 2011 by 80 UMP delegates of the National Assembly to the Minister of National Education, Luc Chatel.

**5** | Institut Emilie du Chatelet (2011): Enseigner le genre.

URL: [http://www.institutemilieduchatelet.org/Enseigner\\_le\\_genre.html](http://www.institutemilieduchatelet.org/Enseigner_le_genre.html) [15.07.2011].

This debate lends itself to illustrating the study objective in the competence area 1 of the future Geneva teachers, i.e. “situating themselves as experts in their teaching subject, adopting a critical stance towards it, as well as being familiar with its history, methods and teaching materials”. In addition, the debate serves us as an introduction to the topic, as the following example of a lesson will show.

## Method

In order to sensitize students to the influence of gender-specific elements on teaching material we developed a two-hour study module together with university professors for didactics in the subject of biology.<sup>6</sup> This module is part of a series of didactics lessons on anatomical illustrations and their possible forms of interpretation. In the course of this series the university professors remind the students of the fact that pupils can spend their time at the microscope drawing air bubbles in all detail, even though they are supposed to examine a cell. But if these pupils do not know what a cell looks like they could in effect take air bubbles for the actual

object of examination. The teacher, in turn, may not even notice the air bubble since she/he immediately recognizes it for what it is and systematically discards it.

Together with the future teachers, we will here draw a parallel to the representations of the genital tract to show them how prefabricated stereotyped theories about sex can lead to distorted anatomical illustrations. First we show the students an anatomical table from the work of Thomas Laqueur (1992) which shows the female genital tract. In this illustration André Dulaurens identifies a seminal duct (PP), which partly blends into female testes (OO), as well as ejaculation vessels (QQ) that disembody into the uterus (M). Laqueur (1992) declares that Dulaurens represented the female genital tract in this way because he was convinced – like other anatomists of his time such as Vésale – that the female genital tract was the inner version of the male genital tract,



Figure 1: Female genital tract, André Dulaurens, *De dissectione*, Paris, 1600.

<sup>6</sup> | My thanks go to Rémy Kopp and François Lombard, research assistants at the Institut universitaire de formation des enseignants de Genève (IUFE), for their support in the introduction of this module.

somewhat like a glove turned inside out. It is therefore very much the convictions of the time that have led to androcentric anatomical illustrations and technical terms, even though dissection could already prove that these did not match with reality. We can therefore say that the scientific community of the 17th century did not assume a specific anatomy of women that distinguished itself from that of men, owing to the gender theory of the time that implied a continuum between male and female. From the perspective of the binary of sex these are blatant distortions in the representation of reality. On the other hand, the notion of a continuum between the sexes offers the advantage to also include intersexuality, which has no place in the strictly binary sex theory.

### Where is the womb?

We begin by analysing medical-historical texts about the assumption, widely held from the ancient Egyptians until the 19th century, of a wandering or at least mobile female genital tract. Hippocrates explained mental disorders in women with a lack of sexual activity, as a result of which the womb dries up and has to wander around searching for humidity. It thus supposedly wanders through the body and causes contusions of the hypochondrium (leading to respiratory distress and seizures), of the heart (causing restlessness and anxiety), of the liver (responsible for hysteric cramps) and the head (causing spasms). In the same period Plato describes the uterus as an

“indwelling creature desirous of child-bearing, – remains without fruit long beyond the due season, it is vexed and takes it ill; and by straying all ways through the body and blocking up the passages of the breath and preventing respiration it casts the body into the uttermost distress, and causes, moreover, all kinds of maladies.”<sup>7</sup>

These disorders are called hysteria, from the Greek *hystera* (uterus). It is obvious that the social interest of such theses lies in the control of the female body. The doctors were able to persuade her in her own best interest to have frequent sexual intercourse and numerous pregnancies.

These assumptions outlasted centuries, for even Charcot, although hardly believing the thesis of the wandering womb any more, prescribed his female patients compression bandages for their ovaries to protect them from major hysterical attacks.

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**7** | Platon (360 BCE.): *Timaios* 91 c), in: *Plato in Twelve Volumes*, Vol. 9 translated by W.R.M. Lamb. Cambridge, MA, Harvard University Press; London, William Heinemann Ltd. 1925. <http://www.perseus.tufts.edu/hopper/text?doc=Perseus%3Atext%3A1999.01.0180%3Atext%3DTim.%3Apage%3D91>.

The notions that the womb determines the women's moods or that a non-pregnant woman acts against nature are widely held even today. Regarding the womb or uterus, biologists and doctors know very precisely where it is located, but what about the pupils?

Indeed, knowledge about sex-related organs is far from self-evident, both for boys as well as for the girls, particularly because this knowledge is often strongly tabooed. In addition, a large part of the female reproductive apparatus is inside the body. Contrary to the penis, the external genitals (labia, vulva, and clitoris) are seldom mentioned, featured or depicted. Sometimes pupils don't even know the corresponding terms. In addition, we have to state that many young parents have a lot to say about the willy of their little boy (its size, its mobility...) while they have nothing to say about the minnie (or other possible names) of their little daughter. When parents later talk to their little girls about their sex, then this is often combined with the instruction to have a wash down there, implying they are somehow dirty (Détrez 2006).

In biology lessons the pupils can learn to better understand their bodies – provided they are given adequate illustrations that are not stuck in the binary pattern and contain as few implicit attributions as possible.

Let us now take a look at the following illustrations which were taken from a secondary school I science workbook (8th grade, age 13-14 years):

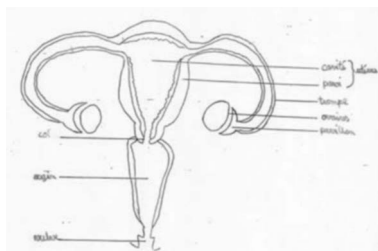


Figure 2: Female genital tract, from the written notes of a pupil.

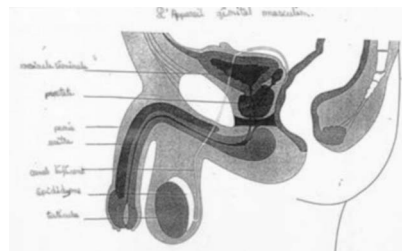


Figure 3: Male genital tract, from the written notes of a pupil.

These two illustrations of the female and the male genital tract are often used by teachers; it is the sort of illustrative material that they like to hand out to their pupils for labeling. It is however evident that the illustration of the male genital tract not only has a better image quality (more detailed, more gradations of grey), but that it also includes a part of the body. Here the pupils can identify the penis, the testicles and the muscles of the buttocks. The illustra-

tion of the female reproductive apparatus, by contrast, is a simple sketch without any reference to proportions, or an indication in which part of the body the organs are located. The fact that the female genital tract lies inside the body does not justify not depicting the body – it would only facilitate to identify the exact location.

## Puberty

The treatment of the subject of puberty in secondary school biology class is somewhat sensitive, since the pupils themselves enter puberty around this time. Here then, not only general facts about the human body are conveyed, as it is done in the units about the muscles or digestion, but also the changes taking place in the pupils' bodies are discussed. As already earlier in the case of the illustrations of the genital tract, we decided to approach the discipline via its history, to make clear how social roles and moral codes tend to be biologized, thereby portraying as unavoidable and situating social power relationships as something natural. Thus we can for example read in Antoine Marro's treatise on 'The puberty of men and of women' from the year 1902: "Besides physical flaws we could observe that premature unions produce more criminals, thieves and even violent perpetrators." He concludes that marriage should be delayed as much as possible. Nevertheless, premature unions "are for the body and for morale significantly less dangerous than [male] onanism."

Regarding young women, Bureau-Riofrey writes in his work 'Physical Education for Young Ladies or Hygiene for the Woman Before Marriage' (in French: 'Education Physique des Jeunes filles ou Hygiène de la Femme avant le Mariage') published in 1835 that during puberty

"there is something like the movement of nerve fluids that run through the system with desire to entrench themselves; such physical phenomena explain perfectly the fluctuations in the nature of young girls, their constant but still fleeting afflictions that constantly shift inside the body like fluids in a container carried around."

This is followed by a list of the various afflictions of young girls which sometimes even drive them to suicide. The list takes up a whole page.

In this description we again encounter the image of wandering inside the women's body – this time not of the uterus, but of fluids – which reminds us of the Hippocratic theory of moods from the 6th century B.C.E which was still widespread well into the 18th century. This theory depicts women as cold

and humid, making them more vulnerable, susceptible to all sorts of disorders, weaker. Owing to these constantly undulating fluids they supposedly had vapours and mood swings and were therefore fickle. Here, too, the question seems appropriate whether we continue to adhere to the concepts the Hippocratic theory is based on although we have long ago discarded the theory as such.

Let us once more return to the written notes of the pupils taken during a learning unit on puberty. The teacher asks the class to list various changes that occur during this phase of life. He presents the following table to the class:

Features	Woman	Man
<i>Primary sex/gender features</i>		
First signs of puberty	menstruation	ejaculation
<i>Secondary sex/gender features (body)</i>		
Chest	breast	
Glottis		Adam's apple
Muscles		stronger development
Skin	cellulitis	hair
Skeleton	widening of the pelvis	widening of the shoulders
<i>Sekundäre Geschlechtsmerkmale (Verhalten)</i>		
Behaviour	feminine	virile
Habits	make-up, hairstyle	beard

Table 1: The changes in puberty, from the written notes of an 8th grade pupil.

Looking at this table we encounter numerous errors and inaccuracies. First we can criticize the strict binary categorization which is set unmarked as a default. Thus for instance the fact that only men can have an Adam's apple does not mean automatically that all men have an Adam's apple. It is similar with the other listed elements (not every man has automatically stronger muscles than every woman). We also notice with concern the connection of the first menstruation with cellulitis (which by no means occurs systematically during puberty), since some young women at this age can feel urged by normative body schemata to extreme thinness, well aware that anorexia can also suppress menstruation.

The division of the table in two columns creates the impression that everyone can place themselves either in one or the other category. According to statistics, in the Canton of Geneva alone there live around 300 intersex persons.

What is also problematic is the logical connection between the first signs of puberty (menstruation and ejaculation) and the significance the teacher accords to puberty: it is the phase of life in which human being acquire the ability to reproduce. Such a depiction reduces sexuality to reproduction and puberty to the development of reproductive organs. We should remind ourselves that the term 'puberty' originates from the Latin *pubertas*, which means covered with hair.

The further contents of the table are even more questionable: In the rubric of behaviour-related secondary sex/gender features beard growth (which incidentally does not appear on the genetic map of all men) is put on the same level as the (purely cultural) making-up of women. The table thus implies that cultural behaviour is biologically conditioned and attributes to both sex-related categorizations the respective behaviour – virility is expected of real men, femininity of real women. Anyone that cannot be put into this binary categorization is therefore regarded as biologically abnormal.

## CONCLUSION

The analysis of these topic areas aimed, on the one hand, to show future teachers that the knowledge conveyed to them with regard to gender aspects is not neutral, and on the other, that the ideological influences in the representations are often hidden, because they correspond to our convictions about the one sex difference (in French: 'La différence des sexes') (Marro 2012) and sexuated stereotyping (in French: 'stéréotypes sexués') that permeates our society. In addition, the future teachers have to recognize that the pupils also absorb this knowledge through the filter of their respective youth and family culture, which is also strongly marked by sex/gender stereotypes. Thus the secret curriculum (Forquin 1985) of the biology class contains unscientific elements which contradict those values promoted by the school, but nevertheless flow into the knowledge transfer. We therefore think it important to degender this field.

While the future teachers certainly expressed interest in the topic, it has shown that their knowledge barely goes beyond the discovery stage. Some groups needed our support to make the sexed/gendered representations of their teaching materials visible. It seemed obvious to us that for the majority of them it had never crossed their mind to take up a gender-sensitive, critical stance towards the teaching contents conveyed to them (see study targets

competence area 1). Many of the future teachers were amazed at their newly acquired insights. Some students also went beyond the mere sensitizing stage by mobilizing more general knowledge about gender aspects conveyed to them at an earlier point in time (for instance in the first year of study). One group established, in the framework of a thorough comparative analysis of different illustrations presented to pupils, that the manner of depicting the female and male bodies can lead to merely partial or erroneous representations of reality. These teachers now choose their teaching material with a fresh perspective and use, for instance, illustrations of the genital tract from various angles or three-dimensional depictions that better reflect reality.

It seems evident to us that for the majority of these teachers an acclimatization phase is necessary before they can apply their newly acquired knowledge in class. Even though we were able to detect a certain general degree of sensitization, it is difficult to conduct an accurate survey of the actual learning effects on the teachers as well as of their ability to absorb the newly gained competencies (Boutin 2004). Nevertheless we can agree with Progin and Müller (2012) and say that we have laid the foundation for a sex/gender competency which could make it possible to respect sex/gender-related diversity and give guidance to the pupils in an environment free of discrimination.

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# Prisoners of Lexicon: Cultural Cisgenderism and Transgender Children<sup>1</sup>

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*Natacha Kennedy*

"I am not trapped by my body.

I am trapped by your beliefs."

SASS ROGANDO SASOT

## SUMMARY

This paper focuses on cultural cisgenderism and its effects on trans people and trans children in particular. Based on a sociological analysis of the key assumptions of the construct of cultural cisgenderism, the author examines how cultural cisgenderism impacts the development of self-perceptions in trans people and trans children, and clearly reveals in detail the different effects of the system of cultural cisgenderism. Cultural cisgenderism is here primarily contrasted with transphobia, in the hope of contributing to a better understanding of the problems that trans people face with cultural cisgenderism.

## INTRODUCTION

Whilst trans people, and in particular, trans children often suffer from transphobia, that is, direct discrimination and prejudice,<sup>2</sup> often it is not possible to (exclusively) put this down to an individual attitude of a particularly transphobic individual or group. In many cases the negative effect on trans people's lives is systemic, ideological and cultural. Being clear about this, and giving it a name, 'cultural cisgenderism' develops an understanding of this concept and may make

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<sup>1</sup> | Original version in English. The author characterised the term 'cultural cisgenderism' in the early 2010s; today she uses the terminology 'cis-mythologization' which seems to be more appropriate for sociological discourse.

<sup>2</sup> | For instance, McDonough, K. (2013): Colorado school bans 6-year-old transgender child from girls' bathroom. In: Salon. URL: [http://www.salon.com/2013/02/27/colorado\\_school\\_bans\\_6\\_year\\_old\\_transgender\\_child\\_from\\_girls\\_bathroom/](http://www.salon.com/2013/02/27/colorado_school_bans_6_year_old_transgender_child_from_girls_bathroom/) [07.05.2015].

it easier to identify and reduce its effects in a constructive way. This essay examines cultural cisgenderism and its effects on trans children and young people.

## Background

There is a growing body of evidence (eg: Kennedy 2008, Kennedy/Hellen 2010, Riley et al. 2012, Wyss 2004) to suggest that many trans people can trace their feeling of unhappiness or discomfort in their assigned genders back to early childhood. Additionally a significant proportion of trans people seem to have experienced an epiphany as transgender in their mid-teens despite the seemingly widespread belief that this represents an adult issue. However the numbers of apparent trans children (Kennedy 2008) still seem small compared to the estimated number of trans adults.

There also appears to be a significant body of research, largely published by psychologists (Drescher/Byrne 2012, Green 1987, Money/Russo, 1979, Zuger 1984, Zucker/Bradley 1995) which suggests that between 70% and 98% of trans or gender non-conforming children becoming apparent prior to puberty do not become transgender adults. Yet if this is the case, where do all the transgender, transsexual and gender non-conforming adults come from? Kennedy and Hellen (2010: 2) estimated that between 90% and 95% of trans children are non-apparent. Non-apparent is defined as a trans child not known to any adult as transgender. So why do these children conceal or suppress their sex/gender non-conformity?

## Cultural Cisgenderism

Research carried out by Ansara and Hegarty (2011: 5) suggests that there exists a culture within psychology they characterize as cisgenderism. Their definition of cisgenderism in the area of psychology is as follows:

“...a prejudicial ideology, rather than an individual attitude, that is systemic, multi-level and reflected in authoritative cultural discourses. [...] Cisgenderism problematises the categorical distinction itself between classes of people as either *transgender* or *cisgender* (or as *gender variant* or *unmarked*)<sup>3</sup> [...] We consider cisgenderism to be a form of *othering* that takes people categorised as ‘transgender’ as the *effect to be explained*.”

It is important here to emphasize the distinction they make between cisgenderism and transphobia; cisgenderism is clearly conceptualized as an ideology as opposed to an individual attitude. In this way, if it were viewed in Saussurian

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**3** | Or, more in line with the terminology developed in this volume: variant sex/gender identity vs. unmarked sex/gender identity.

terms transphobia may be characterized as the parole to the langue of cisgenderism.<sup>4</sup> In the case of the esoteric<sup>5</sup> domain of psychology, cisgenderism also appears to be characterized as integral to discourses about trans people. However it would be difficult to suggest that cisgenderism in society in general (which I refer to here as cultural cisgenderism) is reflected in authoritative cultural discourses as it is in psychology (or possibly indeed in associated esoteric domains such as neurology).

In order to understand the difference between cisgenderism in psychology and cultural cisgenderism and to come to a useful definition of cultural cisgenderism it is necessary to analyse the way cisgenderism works in psychology in comparison with the way it functions in society in general. I shall draw on Social Activity Method (Dowling 1997, 2009) in order to analyse this area through the sociological gaze. In this instance analysis will consist of consideration of levels of institutionalization and discursive saturation.

In this context institutionalization refers to the extent to which a practice is regular emergent on autopoietic action. A strongly institutionalized practice (I+) is characterized as being very regular and consistent whereas a weakly institutionalized practice (I-) is irregular and inconsistent. Discursive saturation refers to the way practices may be distinguished in the way they deploy strategies which establish discursively available principles (Dowling 2009). A highly discursively saturated practice (DS+) is characterized as dependent, to a relatively large extent, on language. A weakly discursively saturated practice (DS-) in contrast, tends to rely to a much lower extent on language.

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**4** | grammar.about.com (2013): In linguistics, language as an abstract system of signs (the underlying structure of a language). URL: <http://grammar.about.com/od/il/g/langueterm.htm> [15.12.2013]. Saussure, F. de (1916): *Course in General Linguistics*, translated by Wade Baskin, 1959. Bally/Sechehaye (ed.), New York: Philosophical Library. Interdependency of *Langue* and *Parole* 'Saussure's Cours': this aspect was incorporated for a metaphorical representation in the use of concepts more familiar to sociologists and others. While the terms '*langue/parole*' are no longer employed in linguistics they were recruited by sociologist and constitute a regularly used concept.

**5** | In sociology, esoteric refers to a highly specialized field that can only be accessed with a high degree of expertise; Dowling, P. (1998): *The Sociology of Mathematical Education*. London: Routledge Falmer.

The relational space in fig 1 shows how these concepts can be used to situate cisgenderism in psychology relative to cultural cisgenderism.

*Level of Institutionalisation*

Level of Discursive Saturation	I+	I-
DS+	<i>Cisgenderism in psychology</i>	<i>Organized transphobia</i>
DS-	<i>Cultural cisgenderism</i>	<i>Reactive transphobia</i>

*Table 1: Cisgenderism; DS = discursive saturation; I = institutionalisation*

As the relational space shows, cisgenderism in psychology and cultural cisgenderism are both strongly institutionalized practices. However whilst cisgenderism in psychology is characterized as relatively highly discursively saturated, cultural cisgenderism is relatively weakly discursively saturated. So, bearing in mind Ansara and Hegarty’s definition of cisgenderism in psychology, we can now draw on that to work towards a definition of cultural cisgenderism.

Cultural cisgenderism may be characterized as a detrimental and predominantly tacitly held and communicated prejudicial ideology, rather than an individual attitude. It represents a systemic erasure and problematizing of trans people and the distinction between trans and cisgender people. It essentializes sex/gender as biologically determined, fixed at birth, immutable, natural and externally imposed on the individual. Here cultural cisgenderism appears in many ways to be an example of Bourdieu’s (1977: 164) concept of doxa: “[...] the established cosmological and political order is perceived not as arbitrary, i.e. as one possible order among others, but as a self-evident and natural order which goes without saying and therefore goes unquestioned.”

The two right fields of the diagram show transphobia as a weakly institutionalized practice, since here it is not so much an ideology rather than a personal attitude. Transphobia appears to be largely due to cultural cisgenderism and is thus weakly discursively saturated. It primarily emerges from individual negative emotional reactions in situations that involve a trans person. This is referred to in the lower right field as reactive transphobia. Organized transphobia (upper right field), as a discursively relatively strongly saturated, but at the same time weakly institutionalized transphobia, may at first appear to be a contradiction regarding the terms used here, but it is, for instance, exercised by politically extreme right-wing Christian groups and Trans Exclusionary Radical Feminists

(TERFs). These groups, particularly the latter, are associations of transphobic individuals that rally around their common denominators of hate and phobia and that can generate a group identity or culture. But since the discourse of such groups is highly inconsistent and even contradictory, and because they represent extremist minority opinions and oppress and mistreat trans persons and abuse us (Stryker 2008: 110), it would be inappropriate to regard these as constituting forms of cisgenderism. The difference between the transphobia of TERFs and the DS+ ideology of cisgenderism is that the former is a deliberate practice closed to rational arguments. Cisgenderism, on the other hand, is a culture or an ideology that seems to be substantially easier to combat with reasoned arguments. Cultural cisgenderism represents a tacit ideology, which, in this instance also appears to be manifest as an element of culture (Geertz 1973). It appears to be so well established in our Western European culture that it may be expressed and transmitted tacitly. As such it represents an unspoken discrimination against those whose gender expression or identity does not conform to the cultural ideal representing that to which they were assigned at birth.

### **Analysis of Cultural Cisgenderism**

This section attempts to elaborate the above characterization of cultural cisgenderism in a little more detail.

#### **A Systemic Erasure**

Cultural cisgenderism, as a tacit ideology, causes the marginalization of trans and other gender non-conforming people because it does not acknowledge their existence in both cultural discourse and social structures. Linking Paechter's analysis of the gender binary (2007) with Lave & Wenger's model of communities of practice (CoP, Lave/Wenger 1991) illustrates how, in particular for children, there may appear no means of conceptualizing any sexes/genders outside male and female or the possibility of moving between sexes/genders. These gendered communities of practice also appear to encourage and reward the adoption of strongly stereotyped gender performances that are reinforced by external cultural input ranging from immediate family to the media. Trans people here are erased by their cultural non-existence. Indeed many trans people, despite identifying feelings of not fitting in from a young age, relate how they feel unable to express this in language (Kennedy/Hellen 2010); for example by not having acquired any trans-related vocabulary such as 'transgender or transsexual'. This probably represents one of the most significant ways that cisgenderism exerts itself as an ideology, and, as I intend to argue later, one of the most significant hurdles for trans children and young people to overcome.

Cultural cisgenderism makes trans people systematically invisible, and this is problematic precisely for identifying and counting trans persons in general and trans children and adolescents in particular. Most estimates for the percentage of trans persons in a particular population are around one percent, even though this figure will vary in different cultural environments. However, the problem of counting a part of a population that is in its majority invisible is that the results will, in all probability, merely confirm the predominant view, i.e. that there are in fact very few trans children. On the basis of these considerations, a small country such as Luxembourg will have a population of presumably at least 550 trans children, a figure only slightly smaller than the number of trans children currently receiving treatment at the Tavistock Institute in Britain. If the number of children treated at the institute is representative of the percentage of trans persons in the population, then there should in fact be only 70.000 trans persons living in Britain.

### **Problematizing of trans people**

The labeling of trans people as problematic appears to be a feature of cisgenderist ideology. Since trans people have been studied in depth, by researchers such as Hirschfeld (1910) we have been characterized as inherently problematic. Indeed causes for all forms of sex/gender non-conformity have been explored with advocates of these ideas focusing particularly on neurological differences (Kruijver et al. 2000; Rametti et al. 2010), which effectively position trans people as ‘brain intersex’ despite these claims being significantly undermined by broader overviews of neurological research (Fine 2011; Jordan-Young 2011). However, this problematization is still likely to have effects on young trans people and trans or gender non-conforming children themselves. Referral to psychologists or psychiatrists almost certainly results in trans children perceiving themselves as suffering from some kind of affliction that requires treatment or cure, this may go some way to explaining the apparently large number of so-called desisters, i.e. those that prefer to remain invisible rather than exposing themselves to stigmatization. Indeed while psychological explanations of why trans children under 12 more often than not appear to stop being trans are focused on, there are other, social explanations which are often overlooked.<sup>6</sup> Possible reasons could be: pressure from the family through rejection, poor passing in terms of lack of recognition in the desired gender role, stigmatization, lack of understanding and acceptance.

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**6** | For example Ria Cooper who was effectively forced to detransition because of social pressures rather than ceasing to identify as transsexual. See Macaskill, G. (2012): “I was a boy ... then a girl ... now I want to be a boy again”: Agony of teen who is Britain’s youngest sex-swap patient. URL: <http://www.mirror.co.uk/news/uk-news/britains-youngest-sex-swap-patient-wants-1403321> [29.11.2013].



### **The problematizing of the difference between cisgender and transgender people**

Cisgenderism does not merely affect trans people, it affects everyone. It represents one of the main ways by which the gender binary and potentially everything stemming from it, such as male hegemony and misogyny, exerts its influence. Although it has different consequences for trans people, it still functions to prevent cisgender people, in particular those assigned male gender at birth, from expressing preferences for activities or items associated with any other sex/gender. It is important to stress that cisgenderism affects men and women differently, and men and women differently in different cultural environments. It is also important to emphasize that trans people identifying as trans for specific purposes, such as political organization in defence of, or in the struggle for human and civil rights, represents productive categorization, in other circumstances these categorizations are less so and potentially represent problematic distinctions.

### **The essentialising of gender as biologically determined, fixed at birth and immutable**

Current ideology of gender appears to conceive of gender in an essentialist way. Even within the trans community this cultural influence can be detected<sup>7</sup> being employed as an apparent means of legitimation, the effectiveness of which is far from established. Messner (2000) illustrated a tendency by adults to essentialize sex/gender in young children even when few, if any, innate differences were apparent. Adults seemed to pick up on small elements of gendered behaviour, which were often themselves culturally induced, and interpret these as essential.

If sex/gender is commonly viewed as essential then it is likely that anyone who fails to conform to the rules of sex/gender will be considered to be suffering from some kind of problem. However, Kane (2006) showed how parents, especially fathers, whose children identified as trans or sex/gender non-conforming, and particularly male-assigned children, appeared to change their ideology to a social constructivist one, blaming themselves for failing to bring their child up in a sufficiently sexed/gendered way. In both instances trans and sex/gender non-conforming children are likely to find it difficult to assert their genders in the face of de-legitimation.

### **Sex/gender as externally imposed**

We characterize gender as assigned at birth and we also use the phrase 'gender attribution' when we describe the way others assign gender to someone they encounter. Many trans persons understand gender as something assigned at birth.

<sup>7</sup> | For instance: Blog: Women born transsexual. URL: <http://womenborntranssexual.com/about/> [29.11.2013].

The phrase ‘gender attribution’ also denotes the way others assign a particular gender to someone they encounter. In both cases the active agent is the other person, the person doing the gendering is not the person who is being gendered. In this situation they are culturally positioned as the passive individual. Culturally, gendering is something done to us by others. This represents a significant problem for those whose sex/gender identity or expression differs from the one they were assigned at birth. It is also likely to result in significant difficulties in terms of self-intelligibility for children in this position. If, at a very young age one is continually told that one is a boy, when one does not feel like a boy that is likely to result in confusion and potential psychological or emotional problems. Yet this cultural imposition of gender, when combined with other characteristics of cultural cisgenderism, in particular the systemic erasure and essentialising of gender represents a formidable epistemological, cultural and social hurdle for trans children to overcome.

However it is not solely the external imposition of gender that represents a significant problem for trans people; it is the way this external imposition of gender is not perceived as problematic. Examples of this may be difficult to find since cultural cisgenderism is a largely tacit, DS- (weakly discursively saturated) practice. The following extract, however, from an article in the Daily Mail about a trans child represents a good example. It can be understood as an instance of the culture or ideology of cisgenderism speaking through the voice of one individual:

“The grandmother of a five-year-old boy who is now living as a girl has admitted she would rather he were back to his old self than going around in pink dresses. For more than a year Zach Avery from Purfleet, Essex, has worn his long fair hair done up in bunches and insisted on living his life as a member of the opposite sex. But Jill Recknell, from Alderney in the Channel Islands, who is in her mid-50s, confessed she cannot accept that her grandson has suddenly become a granddaughter. Mrs Recknell added she was upset by Zach’s parents’ decision to go public, telling the People: ‘I’d rather see him kicking a football than parading in a pink dress.’ But Mrs Recknell says, although she loves her grandchildren no matter what, Zach will always be a boy to her – ‘the sex he was born with and is on his birth certificate.’ ” (Daily Mail 1st March 2012)

In this example, the cisgenderist ideology of externally imposing one’s own sex/gender attribution on another is evident on two levels. Firstly the Daily Mail follows its apparently normal editorial policy of employing the gender of the individual as assigned at birth. This is in direct conflict with the Trans Media Watch Style Guide<sup>8</sup> and could thus be argued to represent deliberate transphobia, especially since

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**8** | Trans Media Watch: MEDIA STYLE GUIDE. URL:<http://www.transmediawatch.org/Documents/Media%20Style%20Guide.pdf> [29.11.2013].

this misgendering, i.e. the incorrect attribution of sex/gender, seems to be editorial policy for many newspapers like the Daily Mail. However, it is difficult to characterize the coercive misgendering of Zach by her grandmother as anything other than a manifestation of cisgenderism.

Yet in both instances it is apparently considered unproblematic externally to impose someone else's sex/gender identity on a trans person. Whilst we may have to accept the possibility that Mrs Recknell may have been misquoted or encouraged to deliberately misgender Zach, the apparently banal way the Daily Mail journalist deliberately misgendered her, and the way Recknell has decided to take it upon herself to decide Zach's gender is indicative and illustrative of the way society views the means by which people are gendered. In the opinion of the author both Recknell and the editor of the Daily mail appear to feel that it is appropriate to apply their own coercive attribution of gender to a child and they do not appear the least defensive about it. In addition it has to be acknowledged that the effect of this and other instances of cisgenderism is to de-legitimize trans people and reinforce their unintelligibility to themselves and others. The next section explores how the concept of cisgenderism might affect the lives of young trans people in terms of their life narratives.

### Sex/Gender as Narrative

Bakhtin's (1981: 84-258) concept of chronotope theorized the nature of narrative. It characterized narrative as comprising time (chronos) and space (tope). However Vice (1997) argues, with particular reference to the movie 'Thelma and Louise' (Scott 1991), that narrative is also sexed/gendered. So instead of narrative being conceptualized as

*space x time*

as Bakhtin does, she argues that narrative should be conceptualized as

*space x time x sex/gender*

Vice's case is that 'Thelma and Louise' represents a qualitatively different type of road movie from previous examples of this genre because the main characters are women. It is easy to see why this was never explored by Bakhtin; as a man, the default sex/gender, the idea that narrative could be any different from the way he perceived it from his gendered point of view would have been difficult to identify. However if we accept Vice's argument that narrative is gendered then it is arguable that, for most people there exist more-or-less ready-made life narratives for both genders within the gender binary. Whilst these may be quite diverse and have changed significantly in the course of history they rarely include trans life narratives.

Adult trans people may have different narratives available to them insofar as they can either live alternative lifestyles or change a male life narrative to a female one or vice versa. Indeed this is a familiar concept since it used to be the advice given to all those undergoing gender confirmation surgery. Post-operative transsexual people were often advised not only relocate to a different part of the country (something potentially quite difficult in small states such as Luxembourg) but to create a retrospective life narrative as though they had always been cisgender. This is something Stone (1991) questioned when she advocated post-transsexualism and that transsexual people should live their lives as openly transsexual people. The problem, for young trans people and trans children, is that as a result of the function of cisgenderism there are no life narratives immediately available to them, no narratives of children becoming another gender and growing up and living happy and fulfilled lives in anything other than the sex/gender assigned at birth. Whilst there are narratives of adult trans people's lives (e.g. Morris 1974, Davidson 2012, Drummond 2012) there are none easily available for children unless one knows where to look on the internet.<sup>9</sup>

### Cisgenderism as culture

Life narratives are determined by culture, and in a culture influenced by cisgenderist ideology available life narratives will also be cisgenderist and will exclude the possibilities of trans narratives. This does not merely affect the intelligibility of trans people to others but trans people's intelligibility to themselves.

Stryker (2006) suggested that the exclusion of trans people from European culture stemmed from cultural developments roughly 500 years ago that resulted in the cultural primacy of the material over the spiritual/psychological. This is exemplified by the recent discovery of a 5,000 year-old transsexual<sup>10</sup> in a grave in Prague, where a body with male DNA was interred in the same way a woman would have been, strongly suggesting that transgender people have been accepted in past cultures in Europe. However it is possible that the tendency to culturally exclude trans people also stems from what Douglas (1966: 24) identified as a cultural desire for purity: "We can conclude that holiness is exemplified by completeness. Holiness requires that individuals shall conform to the class to which they belong. And holiness requires that different classes of things shall not be confused." As such it appears that people's attitudes to categorization have become one-dimensional and, when it comes to human beings, the desire

<sup>9</sup> | 11-year-old transgender girl Jazz. URL: <http://www.youtube.com/watch?v=Ael02L4HneE> [05.07.2015]

<sup>10</sup> | URL: <http://www.telegraph.co.uk/news/newstoppers/howaboutthat/8433527/First-homosexual-cave-man-found.html> [05.07.2015]

to categorize one-dimensionally may result in problems for people who do not fit easily into one single category, or who appear to move between categories. The theories of Stryker and Douglas would both seem to go some way to explaining the way transgender people experience this cultural erasure as a result of cisgenderism. In a media-saturated world it is likely that it becomes magnified and so, when trans children become apparent it is more likely that they will be treated as problematic.

## CONCLUSION

Kennedy and Hellen (2010) identified one of the key factors inhibiting young trans people from coming out or becoming aware of their sex/gender identities as this lack of vocabulary. Typically, trans people learn trans-related vocabulary (trans, transgender, transsexual) at an average age of 15 years 6 months. This is clearly not merely an instance of simply learning a new item of lexicon; it represents the key to an entire new world. Not merely does it enable children to categorize themselves and begin to identify with a particular group but it represents a revelation in the way they think of themselves. This was repeatedly identified as an important moment:

“I never had the trans words to use.”

“I never put a name to it and wasn’t even aware of the names TV, TS etc.”

“Reading about someone who did so in a magazine when I was 12 and feeling astonished that I wasn’t alone.”

“I guess back then I felt a freak because there was no-one I knew who was like me.”

This inability to access trans-related vocabulary; a direct result of the cultural erasure of trans people which is a feature of cisgenderism, represents a significant barrier to many, if not most, young trans people and trans children. Since cisgenderism functions as a *DS- (weakly discursively saturated practice)* ideology, the erasure of trans people requires merely that we are not named. The inability to express one’s feelings or identity in language represents, for many at least, a potentially significant obstacle to any kind of self-intelligibility. Whilst it is possible that some young children may be able to express their gender non-conformity with language such as “I am a girl.” Or “I am not a girl.” it is perhaps less likely that they will be understood by parents, who may put it down to a phase they may

be going through, or simple confusion. However the advent of groups of parents of trans children coalescing via the internet has perhaps resulted in more of these children being understood and subsequently helped and supported than previously, as parents of children displaying gender non-conforming behaviour are able to access help and support. Yet the problem remains of trans children and young people whose parents are unable to find help sites such as Mermaids<sup>11</sup> or, possibly more likely, who do not want their child to be transgender. These children, like many others, effectively remain the prisoners of cultural cisgenderism until they acquire a trans-related word in their lexicon. For these children the communities of trans people online and their wealth of information, support and signposting of services, remain hidden, like a mountain in the mist, until one of these keywords unlocks the online transgender networks for them. Locating any information or social network on the internet is determined by language. Once a trans-related word is learned, young trans people's lives can be transformed very quickly. This might come from a resultant epiphany, which enables the understanding of previous feelings of not fitting in, or the understanding that they are not alone and that there are others who are like them. The acquisition of this vocabulary is, however, currently likely to occur in an arbitrary manner, often depending on young people's access to popular media (which is often presented in a negative way). However these lexical keys remain the crucial determinant of at what age and how, trans or sex/gender-non-conforming children can begin to make sense of their lives and start to map out for themselves a future life narrative which might suit them. The exclusion of this crucial word by cultural cisgenderist culture from access by children represents the one of the most destructive elements of epistemological gentle violence experienced by trans people and potentially remains a factor negatively impacting on mental health, self-confidence academic success and social integration.

The emergence of trans people as a group able to begin to exert its own group identity and engage in self-support, signposting of information and political pressure to obtain human and civil rights has occurred concurrently with the development and spread of the internet (Whittle 1998). It has become a vital medium for possibly the first group in human history to establish itself and coalesce predominantly via the internet. However, this demonstrates that it is still heavily dependent on users knowing the appropriate vocabulary to access it. Ensuring that trans children have access to this vocabulary is essential, so that they can realize that they are not alone and can access support from other young trans people online even if they cannot themselves come out at home or

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**11** | British parents association Mermaids: family and individual support for teens and children with gender identity issues. URL: <http://www.mermaidsuk.org.uk> [15.12.2013].

at school. Since trans children are very likely to remain non-apparent It should therefore be the most basic requirement of any equal opportunities policies in schools including primary schools, that these keywords are made available to all children even if school staff do not know whether or not any given class contains any trans children.

This paper has set out to establish and characterize the concept of cultural cisgenderism and its effects on trans children and young people. Although trans children still suffer from transphobia<sup>12</sup> it is important to recognize that prejudicial individual attitudes do not constitute the only problem for trans people; the ideology of cultural cisgenderism, prevalent throughout society, is responsible for many problems, and has been exemplified here particularly by its effects of children and young people.

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**12** | Pugh, R. (2008): Lonely road: Why school is hell for transgender pupils. URL: <http://www.independent.co.uk/news/education/schools/lonely-road-why-school-is-hell-for-transgender-pupils-814378.html> [29.11.2013].

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# Educational Activities: From Binary to Gender-Plural Approaches<sup>1</sup>

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Christel Baltes-Löhr

## SUMMARY

Even if parents, educators and teachers often still unwittingly or unreflectedly raise and educate children to internalize typical male or female behavior, a glance at everyday life in today's society shows that children who do not want to be categorized as female or male, as well as parents who no longer correspond to the stereotype patterns of femininity and masculinity are not an exception but rather provide an insight into the diversity of actually lived lifestyles. What kind of pedagogy would be required to do justice to the diversity of all those forms of existence – along with a regard to the manifold manners of existence in terms of gender?

## RELEVANCE OF GENDER FOR PEDAGOGICAL THEORY AND PRACTICE

If since the 1970s the women's movement has contributed to educational practices being reviewed regarding their inherent, normative notions of gender, and if the women's movement has, in connection with the demands for equal rights for girls and women, brought the encouragement of girls by providing specific offers for girls in day-to-day pedagogical work to the foreground of the pedagogical debate, then it has become increasingly clear that, with the departure from essentialist notions of the nature of women and thus also of men, we can no longer assume homogeneously conceived genders of 'woman' and 'man', but rather that the differences among women and the differences among men are just as manifestly present as different forms of gender relationships. The call for a pedagogy that fosters boys became louder, with both the feminist work for girls' development as well as that for boys' development often remaining rooted in essentialist notions of the *right* girl and the *right* boy. Thus, in an edition of

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<sup>1</sup> | Original version in German.

professional texts related to daycare ('KiTa Fachtexte') with the title 'Gender in the context of the work with children in the first three years of their lives' ('Gender im Kontext der Arbeit mit Kindern in den ersten drei Lebensjahren'), Tim Rohrmann (n.d.) writes that there are highly diverging opinions about the point in time when children recognize their own sex as such and comes to the conclusion: "Children may from a very early age refer to themselves as a *boy* or *girl*. But only later do they understand that there are two sexes, which sex they themselves belong to and – above all – that this will not change."<sup>2</sup>

Besides such still active essentialist and essentializing approaches, the understanding of the constructedness of gender based on interactions and discursive performances has made clear that the two categories of *female* and *male* are in fact unable to represent a supposed essentiality of specific groups of human beings and thus fall short of conceptually encompassing the actually lived diversity of genders. The suggestion made by Baltes-Löhr<sup>3</sup> to situate gender on a continuum which is not limited by the cornerstones of *female* and *male* but is comprised of the four dimensions corporal/physical, psychological, social and sexual gender, and thus considered modifiable, plural, polypolar and intersectional, could represent a possibility for describing the different genders in their historical, cultural, spatial and biographical variance. On the basis of this, suggestions could be developed for pedagogical work with children and adolescents regardless of their gender, without gender-appropriate, -reflecting or -sensitive pedagogy stabilizing precisely what it purports to overcome, i.e. a traditional gender order of women/girls and men/boys that regards – often surprised, frequently irritated – trans and inter persons as a singular exception at best, and essentially as confirming the normality of gender binarity.

## Gender as a norm

If Spinoza talks of bodily persistence as a human condition, and if Hegel expands this idea by positing that persistence is only possible where there is mutual recognition,<sup>4</sup> then Foucault supplements this with the concept that "the norms of recognition function to produce and to deproduce the notion of the human" (Butler 2004: 31-32). According to Butler (2004:48) "the norm has no independent ontological status, yet it cannot be easily reduced to its instantiations;

2 | Rohrmann, Tim: Gender im Kontext der Arbeit mit Kindern in den ersten drei Lebensjahren. URL: [http://www.kita-fachtexte.de/fileadmin/website/FT\\_Rohrmann\\_OV.pdf](http://www.kita-fachtexte.de/fileadmin/website/FT_Rohrmann_OV.pdf) [03.01.2014].

3 | For an attempt at a definition of terms see the contribution by Christel Baltes-Löhr in this publication: Always Gender– Always Different.

4 | "If we are not recognizable, if there are no norms of recognition by which we are recognizable, then it is not possible to persist in one's being, and we are not possible beings; we have been foreclosed from possibility." (Hegel according to Butler 2004: 31).

it is itself (re)produced through is embodiment, through the acts that strive to approximate it, through the idealizations reproduced in and by those acts.”

Gender in its normative dimension can thus far be understood as “a form of social power” and as an apparatus “by which the gender binary is instituted. As a norm that appears independent of the practices that it governs, its ideality is the reinstituted effect of those very practices.” (ibid.). The triad *norm – practice – ideal* however also contains the possibility of a subversive change of the triad’s respective aspects through repetition and the repetitions’ inherent possibility of gradual shifts, e.g. of gender practices in space and time. In this, the performative and historical structure of gender is revealed. Gender not only determines the “very criterion by which we judge a person to be a gendered being [...] or the recognizability of the human” (Butler 2004: 58), but also “how we do or do not recognize ourselves at the level of feeling, desire, and the body [...]” (ibid.). This debate is embedded in the question of how the human condition comes into being. Here too the principle holds that “the history of the category is not over, and the ‘human’ is not captured once and for all.” (Butler 2004: 13). At this point Butler makes a remarkable reference to pedagogy when she emphasizes that “part of rethinking where and how the human comes into being will involve a rethinking of both the social and the psychic landscapes of an infant’s emergence.” (Butler 2004: 14).

However, it remains doubtful in how far the offer for infants demanded as a necessity by Butler is tenable in this form. With reference to the observation that queer theory radically questions a categorial gender attribution, Butler writes:

“It does not follow, therefore, that queer theory would oppose all gender assignment or cast doubt on the desires of those who wish to secure such assignments for intersex children, for instance, who may well need them to function socially even if they end up changing the assignment later in life, knowing the risks.” (Butler 2004: 7f)

This raises the question of whether the perspective of a dedramatization of gender would not benefit the children much more, as it would relegate the issue of gender towards the background cause it to lose its importance altogether. Nevertheless, it is not only difficult to understand why children should be offered an orientation which needs to be overcome later; one should also consider at this point whether a less rigid and more plural understanding of gender would not also benefit those children who have been attributed the gender *female* or *male* and who have adopted this attribution. How much energy could be saved which so far has been mustered by children, adolescents and also by adults in order to be recognized as a *proper* girl/woman or as a *proper* boy/man, how many

gender-related conflicts could be defused or avoided. The definition of gender as a continuum suggested by Baltes-Löhr (see footnote 3, p. 314) would in its practical use and implementation provide everyone with more breathing space for a wider range of developments.

In the following, it will be demonstrated how a pedagogy that aims to do justice to such a demand for manifold possibilities of development could look like.

### **Pedagogy and gender**

Issues of education and socialization as well as concepts of femininity, masculinity and gender relations have increasingly become the focus of public and academic debate since the beginning of the women's movement in the late 1960s.

Thus Tervooren (2006) describes the path from gender-specific socialization to performative gender, Kunert-Zierl (2005) orders the phases of pedagogical girls' and boys' work in decades from 1970 onward, and Rhyner and Zumwald (2008) observe gender through different lenses to gain new perspectives. Regarding youth work, Rose and Schulz (2008) point to the constraining limitations of various gender terms. These four perspectives will be discussed briefly in the following, concluding with the work of Olaf Stuve (2001) and Jenny Howald (2001) who argue from the viewpoint of queer theory.

Drawing on Liegle (2003), education is to be understood as "a bipolar – transferring and acquiring – activity in the framework of (inter- and intragenational) relations." (Liegle 2003: 16). Both poles of education – transfer and acquisition – relate to and depend on each other. "Transfer can only become effective if it encounters the willingness and the ability to acquire." (Liegle 2003: 16). Education is attributed to the field of the acquiring activity, i.e. the acquisition pole of schooling and parenting.

"Learning can be understood as an individual and in each case distinct processing of information and experiences within the environment, and thus the notion of learning has a close relationship with the aspect of acquisition in the concept of schooling and parenting and hence with the concept of education. Learning describes the mechanisms and the regularity of the processes for the acquisition of the world." (Liegle 2003: 17)

Likewise significant is the term 'development', which denotes the shifting of the human personality in its biographical course regarding physicality, knowledge, skills, views as well as behavior. In this, biological principles play as much of a role as experience and learning. "Enabling, accompanying, supporting and stimulating education, learning and development can be described as the most general goal of schooling and parenting." (Liegle 2003: 18)

The significance of the gender dimension for pedagogical theory and practice involves explaining the forms of those processes of development and construction which contribute to someone choosing whether or not to adopt a gender, and thus the question which role parenting and schooling, education, learning and socialization inside and outside the family or other forms of socialization within the private sphere can play in these development and construction processes.<sup>5</sup>

### And again:

#### **social determinacy versus active appropriation/assignment of gender**

According to Tervooren, theoretical models of socialization tend to be located more on the side of passive experiencing (according to Liegle: the pole of *transfer* in the concept of schooling and parenting) (Tervooren 2006: 10), while constructivist approaches emphasize the subjects' own activity (the pole of *acquisition* in Liegle's concept of schooling and parenting) (Tervooren 2006: 20). According to Tervooren, the debate of the 1970s about the gender-specific socialization, particularly regarding the emancipatory aspect of schooling and parenting (Dausien quoted by Tervooren 2006: 10), increasingly centered around the socialization of girls whose opportunities in life are seen by Metz-Göckel (2000: 105 f.) as disadvantaging and deficient. The concept of the 'gender role' developed in 1970s socialization theory principally stems, according to Tervooren, from a notion elaborated by Talcott Parsons of socialization as an internalization of social values and norms, in which however the subject is accorded little space as an agent. The gender roles fixed by society are something to be adopted by the child, who occupies a position *vis-à-vis* the adult that is deficient in every way and dimension (Tervooren 2006: 11 f.).

Biological determinism gives way to social determinism (Hopfner 1999: 135 ff.), unless, as with Hurrelmann (1983, 1986), the concept of the "productively reality-processing subject" (Hurrelmann 1983: 91) gains importance. Nevertheless, the differences between gender groups conceived as bipolar are frequently regarded, in terms of socialization theory, as considerably more significant than the differences among girls and among boys. According to Tervooren, Hagemann-White (1984) sees socialization as the appropriation of the gender binary, which is however fashioned by children acting as active subjects. Hagemann-White nevertheless remains in the bipolar spectrum of the gender binary.

The departure from a deficient perspective on the receiving, socializing child is replaced in the field of childhood studies established in the late 1980s by the view of children "as producers of culture, as social actors and equal members of society whose perspectives have to be developed." (Honig 1999 according to Tervooren 2006: 13). The everyday practices of children are examined with the help

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5 | For non-familial forms of the private see Butler (2004).

of ethnographic research tools. The everyday practices of children are examined with the help of ethnographic research tools. Besides gender, great significance is for instance attached to the children's ethnic background (Tervooren 2006: 13).

According to Tervooren there is an increased perception of individuals' own actions not only in childhood studies but, with the beginning of the 1990s, also in gender studies, with a new emphasis on the construction of genders and the concept of 'doing gender' (West/Zimmermann 1991) underscoring the interdependent actions of social actors: gender is continuously produced and reinforced interactively by the individuals themselves. This constructivist turn is taking place in educational sciences just as much as in educational sciences and sociology of education, and has an enormous influence on the gender debate (Bildén 1991; Lemmermöhle et al. 2000). This approach continues to be criticized – from the perspective of the theory of socialization as well – for its overemphasis of intersubjective interactions at the cost of structure-theoretical categorizations (Lindemann 1993). Ethnographical childhood studies tend to ignore the power of structures and the social-historical evolvment, but the approaches based on the theory of socialization instead tend to lack emphasis on the actors' own and co-construction – in particular when involving the staging, the construction of genders.

The staging of gender identities corresponds to the performative turn, fueled in particular by the works of Judith Butler. Staging and performance does not mean that the agent has a free choice in the representation of the genders (Goffman 1994: 15). In the context of all environmental circumstances it is the performative act of the acting subject by which gender is continuously produced through acts of speech and physicality. In the necessity of repetition lies the perspective of a subversive shift of gender identities and gender.

However, so far it remains unclear "how from the constant everyday failures to achieve the ideal norm, which are however extremely diverse in their concrete realization, new patterns can emerge that acquire normative as well as formative authority." (Tervooren 2006: 20). In the near future it will therefore be necessary to closely observe the processes of the performative practice of gender, and to leave sufficient room both for the interactions and the impact of structures and norms. This approach is ultimately able to take an intersectional perspective into account which, besides the plurality of the genders, considers aspects such as socio-economic status, ethnic orientation, age, regional background etc.

### **Gender-sensitive children's and youth work: more than girls' work or boys' work?**

With regard to girls' and boys' work, Kunert-Zierl (2005) provides theoretical comments on the individual decades from 1970 onward, together with a de-



scription of developments in the field. For instance, in the German version of Montessori educator Elena Gianni Belotti's work from 1975 we find notions of gender-specific conditionings of girls and women that begin with pregnancy and orientate girls ineluctably towards their role as housewife and mother (Kunert-Zierl 2005: 28). Ursula Scheu (1977) describes the same in her work: "Wir werden nicht als Mädchen geboren, wir werden dazu gemacht" ('We are not born girls, we are made to be them'), clearly alluding to Simone de Beauvoir's comment from 1949, when she writes in 'Le deuxième Sexe' ('The Second Sex') that "One is not born a woman but becomes one." (de Beauvoir 1949). Scheu, whose work saw more than 20 editions until 2000, regarded girls as victims of patriarchal structures. In her view, they should practice in gender-homogenous groups to acquire skills that boys already possess as it is, for instance physical resistance. A corresponding program for boys is only demanded in theory, but not implemented in practice. Combined with a Marxist critique of society, capitalist society is held responsible for the development of a specifically feminine identity. In everyday pedagogical practices this leads to specific offers for girls to liberate them from what the female educators believe to be a situation of oppression, and to support and guide them on their path to emancipation. It should only be mentioned in passing that, also in the late 1970s, Maria Mies understood women's studies as alignment with oppressed women and as a search for ways out of oppression to liberation (Mies 1978).

Attempts to question such essentialist and deficient images of femininity emerge when, with regard to the mother-daughter relationship, processes of mutual repression are identified (Osterland 1978 referenced by Kunert-Zierl 2005: 31). However, in this the differences between women continue to be discussed under a negative sign, when women, in this case mothers and educators, are seen to be in a competitive relationship with regard to the child, particularly the daughter, and not as persons contributing to the construction process of the children's gender – with all its dimensions – , only occupying different positions with different perspectives in the same field of education. Thus, even approaches that have a critical take on the concepts of motherhood and daughterhood still continue to fit the mould of the old, traditional competitiveness between women. The rivalry for winning male favor and recognition is substituted by the rivalry for gaining the favor of the child (Kunert-Zierl 2005: 32). In the sense of a recognition theory drawing on Butler (Butler 2001), motherhood, too, would be constructed through the child's recognition, with the respective gender of the actors carrying an importance that should not to be underestimated. We have to ask ourselves whether motherliness reacting to an appreciative son would take a

different form than the one constructed through the appreciation of a girl,<sup>6</sup> and in what way a situation in which the child's gender does not seem to be morphologically unambiguous could generate turbulences. In the same way, one would need to examine the constructedness of fatherliness. Another question one could add here, with regard to the debate about the professionalization of educators, is whether the educator as well becomes an educator through the recognition of the children, how this process of construction is formed and which effects ambiguous gender attributions elicit in education professionals.

With regard to the construction of gender, Kunert-Zierl notes that in the 1980s the discourse shifted its attention increasingly towards the significance of the subjective, active part played by girls and women in the construction of gender. The topic was now that of female subjectivity, and with that the question whether, according to Breitenbach/Hagemann-White, deeply rooted, and also partly cherished, so-called female characteristics thus far regarded as deficient "did not in fact also have their good sides." (Breitenbach/Hagemann-White 1994: 254). A revaluation of the still polarly conceived gender difference took place in favor of femininity. Female forms of coping with issues in everyday life were now in high regard, girls and women could make their voice heard and receive more space both in a symbolic and a haptic sense. In the youth centers, this was the phase in which girls' groups, spaces for girls and specific offers for girls were created. The aim was to recognize and encourage the girls' strengths.

In 1981 Michael Brunke called for gender-specific boys' work, with a view to relativizing male role behavior, particularly with regard to male aggressiveness. 1987 Ottemeier-Glücks explained the necessity of antisexist boys' work which enables boys to reflect their role behavior and to generate "the ability to suffer from one's own role." (Ottemeier-Glücks 1987: 345). The idea was to expand the male concept of self by so-called traditional female features and behaviors such as cooking, washing and cleaning. Although antisexist boys' work was supposed to contribute to the "end of patriarchy" (Ottemeier-Glücks 1988: 381), ultimately perpetrator-victim schemata remained just as virulent as the general allocation of boys to the potential dominant group the girls faced as the potentially oppressed.<sup>7</sup>

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6 | In 1984 Hagemann-White already noted: "A mother does not smile at her son more or less frequently than at her daughter, but differently: her smile carries a different meaning and different emotions. The meaning and the emotions arise from the social significance which being a future man or a future woman carries." (Hagemann-White 1984: 74).

7 | This perspective is still very much evident in the 1997 campaign 'Aktiv gegen Männergewalt' ('Active Against Male Violence') (Süddeutsche Zeitung 270/97 p. 38 of 24.11.1997) when the coordinator of the campaign, Anita Heiliger, replied to the question whether that meant that all men are potential rapists: "I'm not saying that all men are perpetrators, but that in our society male socialization includes elements that can make them become perpetrators under certain conditions. With women the opposite is the case [...]. There are lots of men who reject violence, that's not a new phenomenon. But these men are not regarded as those who determine the norm for masculinity."

Besides the antisexist boys' work, in which femininity is regarded as superior to the tendentially aggressive masculinity, the 1980s also saw the development of the concept of boys-specific education work, which dissolves the pattern of dominator and dominated by addressing the "other boys not oriented along the male norm, as well as the powerful girls in youth work." (Adloff 1988: 376 f.). Approaches to conscious boys' work "prioritize boys as individuals and point to differences and disadvantaging structures among themselves as well." (Kunert-Zierl 2005: 61). The relationship of the genders to each other are observed more from the perspective of the adolescents themselves than from a social-political perspective.

In the 1990s, deconstructivism and Judith Butler's concepts presented above had an enormous impact on the gender debate. However, many feministically oriented youth workers involved with girls' work saw a threat to their subject in the understanding of sexes as results of construction processes and the deconstruction of the communal, joint collective subject of 'we-women'. For the boys' work of this decade it is significant, according to Kunert-Zierl, that besides the antisexist boys' work, popular-science publications like 'Kleine Helden in Not' ('little heroes in distress') (Schnack/Neutzling 1990) with a clear rejection of notions of a strong male gender received wide-spread attention. In 1989, Sielert designed the concept of a reflected boys' work for the scientific field, a work which ties in with the boys' strengths, hoping for acceptance on the part of the boys by creating in them a willingness to embrace hitherto potentially unfamiliar and also so-called atypical behaviors and to incorporate them in their own behavioral repertoire.

In the 'critical boys' work', Winter (Winter 1991, 1997) developed the notion of a diversity of maleness and, like Sielert (1989), favours approaches that clearly distance themselves from all essentialist notions of masculinity. The concept of emancipatory boys' work emphasizes that men themselves can be understood as "victims of a society structured along male rights" (Schenk 1991: 102), and that boys and men need support and guidance in order to be able to develop a male identity beyond traditional norms of maleness (Krüger 1993: 32 f.). Within the approach of gender-specific boys' work the boys should, according to Spoden (1993), be offered gender-homogenous spaces for an independent and self-confident development of their own identity beyond the hegemonially operating norm of maleness. The focus is now on specific offers exclusively for boys, so that the approach can be regarded as a kind of counterpart to the girls' work of the late 1970s, since the gender-specific girls' work, particularly with view to ensuring the existence of spaces providing protection from dominant maleness, also established gender-homogenous groups. Kunert-Zierl also mentions the mythopoetical approach in her overview (Haindorff 1997), which wants

to see the warrior and lover united in the 'wild man' and presumes biogenetic differences between the two genders. Drawing on Horx, the new, gentle, professionally uncompetitive man is frequently regarded as a 'softy', as "a grotesque bogeyman of emancipation culture." (Horx referenced by Haindorff 1997: 129).

In the girls' work of the incipient 21st century, deconstructivism in a way enters through the backdoor, when the concept of 'doing gender' (West/Zimmermann 1991) is considered in gender-reflecting pedagogical approaches (Voigt-Kehlenbeck 2001). An open pedagogical stance, an open mind for the construction processes of 'doing gender', a form of pedagogical support that is not geared towards stabilizing and achieving a completed gender identity, presupposes on the part of education professionals the acceptance of such a destabilization, also for one's own subjective gender identity. The debate triggered by Kuhlmann (2000) which implied that educators would then be unburdened from their model function regarding the demonstration of changed role behavior falls short of the mark here, since the model function in the pedagogical process – doubtlessly also mutual – remains intact, but with changed contents: what is exemplary then is admitting to oneself that gender can also be changeable in continuous construction processes. This can also point to new aspects for the interaction between education professionals and girls and boys regarding an intergenerational perspective. It is not automatically just the adults who 'possess' something that the adolescents yet have to achieve or stabilize, instead all actors involved can communicate with each other about the processes and results of the construction processes during different biographical phases, share and become more aware of the co-construction of identities. Other dimensions such as age, but also socio-economic status, cultural background etc. can play a role in this as well.

In the spirit of such a gender-reflecting pedagogy, spaces for girls are no longer seen as shelters against aggressive masculinity, but as areas of freedom that enable the making experiences that go beyond traditional attributions. This applies in equal measure to boys' spaces.

Rauw's concern (2001), in a mixed traditional-feminist and deconstructive approach to girls' work, is that "the girls experience a space in which they can show and live their strengths and weaknesses. They should learn that their opinion is appreciated without having to comply with a normality in order to be recognized." (Rauw referenced by Kunert-Zier 2005: 54). At this point one would however need to add that, as described above, recognition always operates in a normative context. For the girls' work, the objective should therefore be that recognition is not bound to complying with a hegemonially fixed, seemingly rigid norm and that the girls – and, in the sense of the gender perspective, also the boys as well as other genders – are accorded the necessary space to actively

participate with their actions, feelings and thinking in the construction of what appears as gender normality. Drawing on the premises set up by Rauw (2001) we can establish the following:

1. Girls' and boys' work, or work with genders, presumes reflected gender images on the part of education professionals, so that clichés can be recognized as such and curiosity can grow for how girls, boys and others enact their gender; a projection of the views and assumptions of education professionals on the adolescents should be avoided.
2. The interest of the girls, boys and all other genders are the point of departure for educational work.
3. Greatest possible participation and empathy: girls, boys and all others are actively involved in shaping the pedagogical activities, with respect for the interests of the other, which includes a high degree of empathy.
4. Contact between the genders occurs mutually, across generation boundaries and in gender-homogenous as well as gender-heterogenous constellations.

In this way problems, conflicts, obstacles as well as conducive elements in the construction processes of 'doing gender' can be recognized, and at the same time space can be created for solutions and concretizations beyond any established or predetermined gender images.

We can identify a multiple 'as-well-as': gender work/doing gender should be something to be conceived of together; both gender-homogenous and -heterogenous aspects should be incorporated in the work; education professionals are both, model and learners, but in any case constructors; this applies both to the education professionals as well as to the adolescents. Here one should also point to the intersectionally embedded within the competency to deal with differences, in cases when it is necessary to not want to reconcile the described perspectives; they are thus frequently allowed to disappear, but this approach lets them exist beside and with each other and thus leaves sufficient space to the pedagogical support of construction processes not only of gender, but also of identities with regard to ethnic background, regional affiliation, age etc. However, the need for a specific consideration of trans and intersex children and adolescents is an issue that has yet to be addressed.

### **The lens counts – school as an example for the relevance of paradigms for day-to-day pedagogical work of gender constructions**

What has become clear up to now is the far-reaching significance which the pedagogical attitude of educators holds in the process of pedagogical guidance.

This is also explained in a differentiated manner in the work of Thomas Rhyner and Bea Zumwald (2008).

If the 'reading glasses' are a symbol for the explanations of socialization theory regarding the society-dependent shaping of gender, then binoculars stand for explanations from evolutionary biology which have been regaining importance in social and personality psychology (Webster 2007) after they had been denigrated as reactionary for decades, which in turn was due to the fact that the important concept that human beings can increase their chance of survival by adapting to surrounding conditions had been misrepresented and abusively implemented in racist, national-socialist and sexist notions. Even today such approaches still carry the risk of leading to a reinforcement of gender stereotypes.

'Diving goggles' symbolize psychoanalytical approaches, "opening the eyes for the depth of the soul and interpreting gender differences on the basis of psychoanalytical precepts." (Rhyner/Zumwald 2008: 22). Girls and boys are assumed to each have their own distinct spiritual life. C.G. Jung's archetypes such as Anima as the connecting and 'Animus' as the differentiating and recognizing element are used to explain the choice of girls to to concern themselves with care even while playing, and the interest of the boys in the 'wild man'; here we see a clear link to the mytho-poetical approach of Haindorff (1997) described above. The perspective of the 'diving goggles' can likewise lead to a reinforcement of stereotypical views of girls and boys. Furthermore, Rhyner and Zumwald emphasize that these goggles are probably less appropriate for use in a school environment, that they may constitute the basis for psychotherapeutical intervention and therapy, rather than be used in the context of school work with girls, boys and all others within class organizations, groups, and in the sense of mediation and appropriation of educational contents.

The 'safety glasses' stand for constructivist explanations which – as mentioned several times – regard genders as a result of social construction processes. Boys, girls, teaching staff and all others stage and construct gender. With his approach of 'doing gender' for schools, Güting (2004) has distinguished the following levels: institutional arrangements such as class lists which are organized by gender; gender as a criterion for apportioning and ordering: changing rooms in PE; gender-separated bathroom and shower facilities; optical stagings: hair, hair style, dress and related behavior, e.g. brushing your hair out of your face even though there is no hair in it; interactions, e.g. differently staged response behavior when insecure.

Gender stagings should be supported pedagogically and also remain subject to questioning. Girls, boys and all others should be accorded sufficient space to be able to transgress conventional role images in daily school life as well. In this context, it should again be pointed out how important aspects such as

age, socio-economic status as well as cultural background are in the case of an intersectional approach, and which great significance they hold for the identity construction of girls, boys and all others.<sup>8</sup> According to Rhyner and Zumwald (2008), dealing with gender in daily school life involves three possible strategies: establishing equality, utilizing differences productively and enabling deconstruction. This shall, in conclusion, be illustrated with the following example:

It is clear that the teacher's own attitude regarding the explanation of gender also informs their professional conduct: if observable gender differences are understood as biologically based, then the teacher will try to give children the space to develop these innate female and male abilities and features. If the teacher assumes a construction of the genders then they will, for example, have to closely observe where the pupils' strengths and weaknesses lie beyond normed, traditional gender images.

Establishing equality then means not imposing a priori a stereotype on the girls, boys and all others, but trying to allow everyone involved to actively participate in classroom and break activities. Specific measures of encouragement could for instance mean that in particular situations, e.g. depending on the topic, differences play a role, by giving girls and boys a space of their own to enable the girls to engage in what so far has been regarded as atypical female behavior and, conversely the boys in what so far has been regarded as atypical male behavior.

In this way a deconstructivist approach can establish itself if the pupils can also move beyond the gender systems or attributions. Here an example regarding the use of the school yard: as a situation of departure, it was observed that boys tend to claim a lot of space in their playing, while girls tend to play in a calmer, less extrovert and more communication-oriented manner; boys threaten others and prominently mark their presence in the school yard.

Equality strategies may result in establishing an equal use of space for boys, girls and all others. Girls and boys should partly practice positive aspects of the playing behavior of the other gender group, and it should become normal for everyone that there are children who want to be neither girls nor boys, or who look like a boy but feel like a real girl and vice versa.

The implementation of the difference strategy would ensure that the boys' urge for movement is taken into account and that a further piece of playground equipment is constructed in the school yard, and that girls can find spaces with a cozy atmosphere for sharing and playing. In either case, both girls and boys should be involved in the shaping of the school yard and rules should be developed and established together.

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8 | For the concept of intersectionality see Knapp (2005); Lutz/Wenning (2001); McCall (2005).

The deconstruction strategy would attempt to dissolve typical female and typical male gender attributions and give all pupils the space to deliberate together who wants to do what. The educators also encourage children and adolescents to move within the *other* gender group. With this approach, one has to ensure the willingness in the girls' or boys' group to let the girls and boys attributed to the respective *other* gender group participate as equal members in the playing activity of the other gender group. The perhaps gentler and more reserved boy and the perhaps stronger and wilder girl should be able to find their place both in the gender-homogeneous group as well as in the gender-heterogeneous group and not be excluded on the basis of their *being different/otherness*, at worst by both gender groups – as is still all too often the case in daily school life today. This also applies for the sexual orientation of girls and boys, and for children and adolescents who do not (want to) belong to any specific gender or want to change their gender.

The combination of the three strategies in pedagogical practice enables, drawing on Rhyner und Zumwald, a value-free development for girls, boys and – I would like to add – for all other genders, the full exploitation of individual potentials as well as identities that go beyond traditional gender images or appear in new connotations (Rhyner/Zumwald 2008: 38).<sup>9</sup>

What becomes clear here is the proximity to the notions of intersectional difference competency, which makes it possible to deal with differences and similarities regarding gender as well as cultural background, socio-economic status or age in the sense of a creative diversity.

Rose and Schulz also provide evidence for the necessity of breaking out of the constraining perspective of the feministically marked, often seemingly essentialist difference of the genders, and describe this using the example of a research project in Frankfurt youth centers. The traditional feminist discourse is constraining if gender pedagogy in youth centers is automatically equated with work in gender-homogeneous groups. According to Rose and Schulz, in the past decades a regular pattern has established itself which emphasizes girls' work but does not offer boys' work enough space, and too frequently discounts the gender stagings in the heterogeneous field. Such stagings in the youth center often comprise verbal sexism and gestural allusions to sexual acts. (Rose/Schulz 2008: 73).

It is necessary to understand these stagings in the purpose which the adolescent introduces, and not to react with the apparent 'panacea' of gender-homogeneous group work in which different behavior is practiced and the behavior which the education professional has identified as sexist is discussed. Instead, according to Rose and Schulz, it is about being able to decipher and respond to

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9 | For a further, discourse-theoretical discussion of the topic school and gender see Jäckle (2009): *Schule M(m)acht Geschlechter*.



the verbal and habitual communications of the adolescents. Gender competency would mean not understanding every public remark on the topic of 'gender/sex' as referring to gender. Thus the overlying gender text could be accorded its underlying significance which is often not related to gender content. This de-gendering of situational meanings offers, according to Rose and Schulz, the chance to disengage oneself from gender-fixed interpretations of the stagings, and thus to minimize the risk of permanent misunderstandings between adolescents and teaching personnel and to expand restricting spheres of influence. "The interpretative performances of social messages have to be multi-perspectivistic in order to increase the likelihood that they are understood and answered correctly" (Rose/Schulz 2008: 74), very much in the sense of the intersectional difference competency which could enable such a decoding for the aspects of age, socio-economic status and cultural background, as briefly outlined for the degendering. For the area of gender applies: "If it says gender on the label, it does not always mean that there is gender inside." This notion also corresponds to that of the dedramatization of the gender aspect in pedagogical work as defined by Budde, Scholand and Faulstich-Wieland (2008).

### Queer pedagogy

The works of Olaf Stuve (2001) and Jenny Howald (2001) will serve as an example to cast another glance at those approaches in pedagogical work with children and adolescents that derive explicitly from queer theory. Is it a coincidence or – despite queer theory's clear critique of heteronormativity – nonetheless a cementation of precisely this bipolar, binary gender order, if a man writes about pedagogical work with boys and a woman writes about pedagogical work with girls? Or should this be seen as an expression of the resistance of the gender order? Thus, following her observation that gender research is at the moment developing new concepts that no longer focus on debating the recognition of difference, but rather on issues that concern the dissolution of gender as a mandatory attribution, Helen Sporbert (2009) emphasizes:

"Until the deconstruction of gender has entered the awareness of human beings and a notion according e.g. to that of Judith Butler can become reality, a great deal of time will pass, provided this is at all realizable with the help of human mind and action and does not remain in the realm of theory. In practice, the gender binary will continue to endure, which leads to 'the initial, politically intended point of departure being maintained: it is still about the dismantling of hierarchies, about the realization of democracy' (Faulstich-Wieland 2003: 104). This also has to be seen as the current goal of a gender-appropriate school and gender-appropriate teaching, where the long-term goal has to

be continuously at work, not by presuming a heterosexual gender binary and cementing it through manifold processes; rather, the focus should be on the development of a diverse gender culture and the individuality of every human being beyond a dual gender order." (Sporbert 2009: 16)

It is hardly possible to describe the current pedagogical dilemma more pointedly. How can a non-cementation of the old gender system be achieved if everyone is still using cement? Should girls and boys who become acquainted with a gender system be introduced to concepts from which they should, can, want to or also must later again dissociate themselves? How can a dedramatization of gender fixations occur without allowing too much space for binary systems? Or does pedagogy completely get ahead of itself and should we not ask whether, by remaining in binary gender systems, it does much more harm than supposedly good, when theoretical concepts about the dissolution or shifting of binary gender systems are said to not yet have found their way into society, or, as Sporbert seems to suggest, that the deconstruction of bipolar gender systems has not – yet – entered popular awareness. Could it not be that lived realities with their diversities are light years ahead of theory? Or have theories been developed in the meantime that can gradually uncover the discursive-performative and interactive construction processes of such things as gender, education, socialization and education? Franziska Hofmann remains, with her empirical work "Transsexualität und Sozialisation" (2009), within the binary gender system by postulating a third gender, but defining it as a combination of woman and man and concluding her study by explicitly supporting Magnus Hirschfeld's statement from the beginning of the 20th century, when he observed: "The human being is not man or woman, but man AND woman" (Hofmann 2009: 99; emphasis by Hofmann).

Regarding the issue discussed in this paper, i.e. the significance of pedagogy and education in the context of a presumed diversity of genders, the findings Franziska Hofmann presents in her study reveal an aspect, as such not examined by the author, which will be discussed briefly in the following. In the evaluation of the twelve interviews that Franziska Hofmann conducted with adult trans persons, she states in the tabular overview of the chronological biographies that three of the interviewees put their earliest memory of being transsexual or not corresponding to the assigned gender of female or male at four years of age, two at five, one at six and another one at eight years of age. In one case such a memory was first experienced at eleven, in two cases at twelve and in one further case at fourteen. One of the interviewees reported having such remembered feelings at fifty years of age, and this person is also the only one of the twelve interviewees who stated that they had been forty-nine when they first heard about transsex-

uality, one year before experiencing the remembered feeling of being different. Returning to the other eleven interviewees; regarding the ages for the first memory of being transsexual without even knowing this term, we can distinguish two groups: one group that situates this memory before entering puberty, and another group that situates it after entering puberty. Seven of the interviewees can be assigned to the pre-puberty group and four to the puberty group.

1. First TS memory	1. First contact with TS	Coming out	year difference between first memory and coming out
8	19	21	13
11	14	18	7
4	27	29	25
5	13	27	22
4	15	18	14
4	16	18	14
14	18	50	36
50	49	52	2
12	22	39	26
12	14	36	34
6	13	26	20
5	16	18	13
			226

*Table 1: Excerpts from the table by Franziska Hofmann (2009:89) on the chronological biographies of those interviewed by her; own calculation.*

With the exception of one person's life situation, we see that the coming-out occurs substantially later than the first remembered feeling of not corresponding to the assigned gender, and that these twelve people alone have lived a combined 226 years in a life situation that did not correspond to the way they felt about themselves.

What is remarkable here are the conclusions that Franziska Hofmann draws from her findings: "We can recognize that about half of the interviewees chose to suppress their feelings and comply with the expectations of society." (Hofmann 2009: 90). The author emphasizes the importance of the media as a socialization factor and attributes to them the function of "providing an anonymous platform for sharing ideas" (Hofmann 2009: 92). The interviewed trans persons are characterized by her as follows:

"We have thus on the one hand found people who have attempted to lead their lives in as normal and inconspicuous a way as possible until this situation was no longer bearable. On the other hand

we have very young people who early on already recognized that they are transsexual and have gone their own way. This was facilitated by today's much more open information culture. However, they however have one thing in common: they have at some point in their lives rebelled against the norms and the value system of their childhood and created their own. It should be obvious to everyone that this is no easy path and that it is still often punished with exclusion and intolerance. It shows a great deal of courage and willpower." (Hofmann 2009: 93 f.).

How much could a pedagogy of diversity have contributed here, if children had been introduced by their parents, teachers and educators in families, kindergarten and school to the notion that a diversity of genders is something normal. This is not about denying one's own gender as a parent, an educator or a teacher, whether it is female, male or anything else. Instead, it is about allowing the normality of all genders to enter into familial contexts, child care facilities and schools – and not only in biology lessons. How much anguish, worry and anxieties people who do not correspond to a binary assignation of gender could be spared? How much energy could they have used for other things? At this point it becomes more than clear what kind of tasks pedagogy will have to deal with if it wishes to make an adequate contribution to gender plurality. Information and knowledge about more than two genders are necessary, terms for what is felt have to be provided, everyday life can no longer be limited to two gender forms, pedagogy no longer wants to drastically limit people's life situations.

Thus Olaf Stuve points to the practice of a non-identitary youth work (Stuve 2001: 288 ff.) and dissociates himself from such approaches to youth work which recognize in "irritated masculinity preferably a problem that needs to be brought back into balance" (Stuve 2001: 288 f). In contrast to 'Wild Men' who stage a primordial masculinity, 'Männerbüros' (help centers for boys and men) who base their youth work on the revitalization of male archetypes (see Haindorff 1997), "boys clubs that send boys with compass and knapsack into the field" (Stuve 2001: 288), Stuve defines non-identitary boys' work as a project that "refuses to organize perceptions and experiences by differentiations of male and female bodies" (Stuve 2001: 289).

As an example for a work with the body which is no longer attached to heteronormativity, Stuve mentions the 'body journey' which enables boys to have new experiences and to perceive their body not as an instrument of the mind in the traditional sense of the binary gender systems (Stuve 2001: 291), but as a place in which they can relax, feel comfortable and familiar. Such body journeys aim to give a voice back to 'the body's language' frequently 'silenced' (see Kamper referenced by Stuve 2001: 292) in many boys raised within traditional patterns. In her

work on recognizing transsexuals regarding personal, political and medico-legal embodiment, Zowie Davy (2011) reviews the lived experiences of 24 trans persons, putting the focus on bodily aesthetics that allow us to understand the lived experiences of trans persons who have a “passing, non-passing, beautiful, ugly, normative and non-normative” body (see Davy 2011: 6).

Similar to Struve, Howald has attempted to develop a design for a form of feminist girls’ work that can contribute to the deconstruction of traditional, essentialist notions of femininity. This includes role plays on the topic of homo-erotic infatuations of girls, or of disputes with parents over diverging views on partnership, lifestyle and work (Howald 2001: 306), while the postcard game can be used for the theatrical representation of 101 types of women or the representation of the most diverse types of woman in the framework of a fashion show. In this game postcards are laid out and the girls are asked to choose one postcard with a female representation and explain how they came to make their choice. If historical women’s portraits are displayed on the postcards, then the task could also be to research the history of those portrayed and present it to the group. It is worth remarking that Howald wants to use this to deconstruct the opposition between girls and lesbian girls by letting the lesbian girl be regarded as a normal girl as well. However, there is no mention in Howald’s work of those girls who do not see themselves as girls, even though the article raises these expectations with its title ‘Ein Mädchen ist ein Mädchen ist kein Mädchen?’ (‘A girl is a girl is not a girl?’). Where does that leave us for day-to-day pedagogical practice?

### **Gender-reflecting and gender-sensitive pedagogy**

A gender-reflecting and gender-sensitive pedagogy recognizes factually existing differences between genders and provides opportunities for individual development beyond the established clichés. Gender-reflecting and gender-sensitive pedagogy thus encourages and demands diversity of life plans of young people no matter of what gender (see IEES 2000).

**This concept is based on the following underlying assumptions:**

- genders are results of processes of social construction and therefore modifiable (dynamic aspect);
- thus the relationships between the genders are also modifiable (dynamic aspect);
- genders and gender relationships develop in a historical, cultural and social context (contextual aspect);
- genders are still linked to stereotype notions (normative aspect);

- genders are still linked to notions of a higher or lower value of one gender or specific gender/sex characteristics (normative aspect);
- genders are often regarded in the context of a dualistic gender binary (heterosexual aspect).

### **Gender-reflecting and gender-sensitive pedagogy**

- contributes to gender losing its significance as a social criterion of differentiation;
- understands gender in the dimensions of corporal/physical, psychological, social and sexual gender;
- gender is regarded as situated on a continuum, as modifiable in space, time and in the course of a life's biography; and as embedded in a polypolar, plural and intersectional manner;
- addresses all genders equally in a specific way, depending on the situation;
- provides all genders in gender-homogenous and in mixed gender groups with opportunities for developing and realizing their own notion of gender;
- encourages the perception of gender differences and similarities;
- reflects heteronormative gender images and questions the self-evidence of the gender binary;
- consciously addresses stereotype gender images and questions them;
- frees homo-, bi- and other sexual orientations from taboos;
- refrains from assigning a homosexual orientation to trans and intersex persons;
- is sensitive to the factually existing gender relations and the prevailing forms of discrimination still associated with them;
- is sensitive to a utopia regarding gender relations and thus a new gender culture;
- recognizes the diversity of life situations and attitudes of children and adolescents, and reflects together with them on their ideas of their own personal path;
- offers individual opportunities for development beyond traditional roles;
- remains aware of how the gender relationship and the images of gender change in adolescents;
- advocates gender equality;
- subscribes to the equality of all human beings;
- can be applied in all areas of day-to-day pedagogical practice (see – network point for equality – Vernetzungsstelle für Gleichberechtigung).

This results in a number of requirements for education professionals who together assume the responsibility for a practice of reflected gender-sensitive approaches and make a conscious choice for the application of such an approach:

- reflection of one's own notions and images of gender;
- reflection of one's own behavior as a person with a specific gender identity;
- reflection of one's pedagogical practice;
- participation in further gender-reflecting trainings.

## CONCLUDING QUESTIONS

- Which notions and practices of sexuality are virulent in private and professional day-to-day practice?
- Which cultural traditions do I have as an education professional? Which of them have become self-evident to me?
- Which norms and values are important to me as a person, but also for my professional work?
- Which norms and values are important in my professional area of activity?
- Which space do different cultural habits and traditions occupy in day-to-day pedagogical practice?
- Is there a prevalent cultural dominance discourse in day-to-day pedagogical practice?
- Which possibilities do addressees have to participate in day-to-day pedagogical practice with their cultural, ethnic, age-specific or also religious notions and habitual customs?
- Which religious holidays are observed? Which cultural customs play a role in day-to-day pedagogical practice? Are the places or regions of origin of all actors known? How does linguistic communication take place?
- Which role do parents, family and the social environment play in the framework of my pedagogical practice?
- What does strangeness, being different, difference mean to me?
- To which ethnic group do I feel connected? To which ethnic group do I belong or would I like to belong?
- How do I treat 'others'?
- What kind of behavior do I expect from *others*?
- What if the category of gender were to play a less important role in our lives?

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# Transidentity and Puberty<sup>1</sup>

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*Tom Reucher*

## SUMMARY

An early medical support of children's and teenagers' gender identity variances gives them opportunities for a more harmonious development. Delaying puberty developments can mean gaining valuable time and the effects resemble premature puberty. If the antigonadotropines are discontinued, the development of puberty resumes again, provided there is no hormone cross-sex therapy. In this case the desired result is achieved faster, thereby avoiding numerous treatments for the correction of an undesirable sex development. The psychological support of the children and their families during this phase can prove really useful.

## ON THE TERMINOLOGY

We speak of 'transidentity',<sup>2</sup> since it is an identity and not a form of sexuality or sexual desire. 'Transidentity' refers to the identity of trans persons, whether they be 'transsex' (in the French original version: transsexe) or transgender (in the French original version: 'transgenre'). We have replaced the term 'transsexual' with 'transsex', since it is not supposed to point to possible forms of sexual desire or sexual practices, i.e. to sexuality, and since the term 'transsexual', owing to its terminological proximity to the terms 'homosexual' and 'heterosexual', is therefore inappropriate. The term 'transsex' builds on the concept of the term 'transgender'. With the term 'trans persons', we refer equally to 'trans or transidentitarian persons' and to 'transgender persons'. As should be common knowledge, trans persons can be heterosexual, homosexual, bisexual, asexual etc. We choose not to use the terms 'transsexuality' and, if possible, 'transsexualism' and will in the following speak of 'transidentity'.

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<sup>1</sup> | Original version in French.

<sup>2</sup> | The term 'transidentité' used in the French original is derived from the German term 'Transidentität', which was translated by Support Transgenre Strasbourg into French.

We understand transidentity as an atypical development or variance of gender identity. Just because only a minority displays this variance of an identity development, it is not necessarily pathological – left-handed persons are not diagnosed with an ability disorder either just because they belong to a minority.

### **Benefit of an early medical support**

The following section discusses puberty, hormone therapy at the beginning of puberty, hormonal treatment of 16-year-old Polynesian girls as well as its physiological and psychological effects. A brief overview presents the advantages of early medical support.

A conference held in 1998 in Oxford by ‘Press For Change’ in the course of which a Scottish team of doctors presented their results of hormone therapy in children and adolescents between 14 and 16, as well as the testimonies presented on Lynn Conway’s homepage, in addition to my personal development and the statements of numerous trans persons whom I have met in the past 20 years have reinforced my long-standing conviction, which is: the early support of children and adolescents is a model for the future.

Gender-variant persons must be given particular attention from childhood onwards. This refers in particular to the support of youngsters and their families as well as the medicinal delay of puberty development from its inception until the age of 14 to 16. The ideal time for prescribing a cross-sex hormone therapy would be at the average entry age into puberty of the respective target sex/gender, i.e. for MtF<sup>3</sup> between 12 and 13 years of age, and for FtM<sup>4</sup> between 14 and 15 years of age. This would enable the young people to undergo developments concurrently with their peers. In the French context, this could constitute a great step forward as French endocrinologists rarely have the will to support young people they would agree then to a delay of puberty as timely as possible, before secondary sexual characteristics have fully developed. It would therefore be desirable to already support the children before the age of eight to ten years. If puberty development is already in full swing, an active cross-sex hormone therapy is necessary (as with adults) in order to reverse the already completed development and enable in the gender corresponding to the adolescent’s identity a satisfactory passing.

Since the 2000s, I have met around 15 Polynesian girls in the course of my work who had begun a hormone therapy in Tahiti between the age of 14 and 16. It seemed simply inconceivable to think that these women had not been born in the feminine sex. Those who had not undergone hormone therapy before their 18th year of life had to resort to plastic surgery. In their region of origin,

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3 | MtF: transition from male to female.

4 | FtM: transition from female to male.

transidentity is a culturally accepted possibility of development beside the other two majority gender identities (woman or man). In Polynesia there is at least one trans person in each family's extended family environment (siblings, cousins). Transidentity is thus a rather common phenomenon. Due to this particular context, the personal development is more harmonious, the trans persons have not to confront of feelings of shame. Potential psychological problems are no different to those of the rest of the population.

If puberty has been prevented to set and if a hormone cross sex therapy has begun between 14 and 16 of age it leads to results comparable to those presented by the Scottish team mentioned above. Since the male puberty of the MtF cannot assert itself, female development is ideal: the skeleton (in particular of the hands and feet) remains more delicate and the height is lower. The distribution of the fatty tissue leads to the development of female curves (e.g. at the hips) corresponding by favorable proportions with muscle tissue in the shoulder region. The vocal range, the Adam's apple and body hair are only developed in a feminine way. The epilation of facial hair, voice training as well as the operative feminization of face and neck are no longer necessary. The physical appearance changes rapidly towards a definitively feminine aspect. The puberty of FtM, which begins comparatively early, has to be delayed right from the start. Subsequently, a hormone therapy beginning at the age between 14 and 16 will also show positive results: the skeleton becomes more robust, the length of the body (particularly the length of hands and feet) increases by a few centimeters, the development of muscle tissue and the distribution of fatty tissue produces favorable proportions between shoulders and hip. The voice, the hairs and the beard are developed in a masculine way. The mastectomy is no longer necessary.

If entry into male puberty is not delayed, the muscle tissue that has developed as a result cannot always be reduced with the same effect by a later feminizing hormone therapy. Similarly, the development of muscle tissue by means of a virilizing hormone therapy is less pronounced if it is administered only after female puberty is concluded.

Some doctors reserve treatment at the age of majority. They want to maintain an alleged neutrality and let matters take their natural course. However, this non-action is not neutral. The consequences are just as significant as those of a cross-sex hormone therapy. Instead, something approaching a neutral stance would consist in agreeing to block the development of puberty, since this not only buys valuable time, but the young trans person can also be spared the often difficult reversal of undesirable puberty development at the cost of significantly more massive treatment.

An early medical support of trans children can help to prevent despair, suffering, teasing, stigmatization, collateral damage in the family, failure at school, anxiety, depression, suicidal thoughts and their execution. The psychological development and the socialization of the adolescents would have the chance to proceed as transition in the right gender, are more positive, the relationships with their peers turn better.

In the case of intersex persons, by contrast, medical surgery that is aimed at their 'atypical nature' and does not serve the preservation of life or health should not be carried out. Hormone therapy administered during childhood constituted a source of great emotional distress for all intersex persons I know. They described how this treatment destroyed their lives and wished the hormones had never been administered. For them, these treatments have meant a painful abuse.

It is essential not to push intersex or trans children into one or the other direction, but rather to listen to them and to support them, as well as their families. Slowing the children down in their development is not a solution. Instead, all possible options existing should be discussed with them so that they can make the choice that is best for them. It is more effective to involve them as equal partners in the decision-making processes.

## **Maturity**

Trans persons cannot be expected to be psychologically more balanced than the rest of the population. Such an expectation cannot be demanded as a mandatory requirement for the application of the desired treatments. Feeling better with a hormone therapy and wanting to continue the treatment seems to me more telling than any psychological assessment. As long as the barrier of 'psych's approval' continues to be demanded by endocrinologists and surgeons, the relations between trans persons and 'psych' will remain distorted. Psychotherapy with trans persons is difficult, even though sometimes there is indeed a need for it. Persons desiring hormone therapy should be able to carry the responsibility for their choice by themselves, and health professionals should not be prosecuted for this decision but only held responsible for the professional application of adequate medical measures. Those unsure of their gender identity should be able to ask for help to reach a better understanding of their situation to then make a clarified decision. If the persons concerned do not wish to make the choice alone, then no one else should be allowed to do so in their place. If they choose the path of transition then this bears witness to their maturity. I have experienced several times that only those who are actually ready for it will take this path.

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5 | Psych': (adjective) psychiatric or/and psychological or (noun) psychiatrist or/and psychologist.



Maturity is a complex psychological phenomenon that includes various (intellectual and emotional) characteristics as well as several levels that depend on various stages of development (oral, anal...), some of which the majority of people fail to reach. There are elements that develop only if transidentity gets the adequate medical support, others may develop in a later period of life and contingent on specific events. This depends primarily on the individuals and their personal history. A certain degree of intellectual maturity is certainly necessary for a free and informed agreement to a treatment. However, not all levels of emotional maturity need to be completely developed to take a decision of this magnitude, even if some of them are helpful in the course of life.

### **Possible particularities besides transidentity**

A not insignificant number of trans persons have an IQ of over 125, which in general implies particular cognitive and emotional faculties, these however must not be confused with psychological disorders. Examples: a highly developed awareness with regard to depression or a heightened emotionality regarding unsolved emotional problems.

Not rarely, trans persons have been the victims of sexual harassment or rape, those occurring within the family or outside. These persons often suffer being unwell in their body which makes them easier to notice by sexual predators. Others have experienced physical or psychological violence. Here, too, the various elements have to be regarded in a differentiated way, and possible symptoms of a post-traumatic stress disorder have to be recognized as such. However, these have no link with the atypical identity development, particularly if this latter one was already present before the attacks or the experience of violence.

I have noticed that a further number of trans persons which has not to be underestimated (40% to 50%) suffers from anxiety or depression, about 10% of my trans clients (adult as well as juvenile) display signs of autism (Asperger syndrome, non intellectual deficient autism). These phenomena are not incompatible with transidentity. The 'World Professional Association for Transgender Health' reaches the same conclusion in the 7th version of its 'Standards of Care for the health of transsexual, transgender, and gender non conforming people' and states on page 12:

"It is relatively common for gender-dysphoric children to have coexisting internalizing disorders such as anxiety and depression (Cohen-Kettenis, Owen, Kaijser, Bradley, & Zucker, 2003; Wallien, Swaab, & Cohen-Kettenis, 2007; Zucker, Owen, Bradley, & Ameeriar, 2002). The prevalence of autism spectrum disorders seem to be higher in clinically referred, gender-dysphoric children than in the general population" (de Vries, Noens, Cohen-Kettenis, van Berckelaer-Onnes, & Doreleijers, 2010) (WPATH, 2012).

From my experiences with transitioning I can say that for some persons, a hormone therapy can have an unbalancing effect on their psychological condition. In my opinion, the risk of a development of a bipolar ('manic-depressive') disorder should not be underestimated. In this sense, a psychological support, particularly at the beginning of hormone therapy, is often useful. The depression-promoting side-effects of the anti-androgene drugs on the market in France are also known, in particular, those of cyprotrone acetate. These drugs should therefore not be administered to people who have already suffered from depressive moods. Even if they have frequently been rejected due to their relatively high cost, anti-gonadotropines constitute an effective alternative, providing they are well tolerated.

### **Forms of therapeutical relationship**

It is important to use the grammatically appropriate gender trans persons identify themselves with, especially if they explicitly request it, and this regardless of their outward appearance. Here the therapists should be flexible. This is not about sharing the fantasies of trans persons or encouraging them, but above all about not humiliating them. They have agreed to therapeutical treatment because they have already embraced the issue or believe having identified a particular problem and are looking for professional confirmation. For young people, when there is no doubt, they assert their gender identity, speak about it to their parents if these ones are sufficiently open-minded and listening for that problematic option and then ask for a proper transition. If they are in doubt, they usually do not agree to therapy and do not address this issue.

The goal of therapy is, first of all, to establish whether trans persons are able to give their free and informed agreement, to convey clear information that is appropriate to their level of comprehension, and to check whether they have sought counsel elsewhere and are aware of the consequences of the desired treatment. Here, therapists have to adjust to the trans persons' paces, i.e. must not proceed too fast, but also not too slowly, and take their needs into account regarding the frequency of sessions, the issues to be addressed as well as the kind of hormonal-surgical treatment that is expected

Meeting and knowing trans persons has given me the opportunity to understand that love and sexual attraction can change over time. They are social constructions which have to be localized in the context of heteronormativity (the political system that produces heterosexuals). The people concerned must allow themselves to question gender and sexual stereotypes in order to achieve greater freedom. Children and adolescents usually have no major problems with the deconstruction of sexuality transmitted through gender, sex and sexuality norms.

At this point one should note that the division into 'primary' and 'secondary' transsexuality still common in France is obsolete and was abandoned internationally years ago. The criteria have also become more flexible. In psychotherapy, elements continuously come to the surface that were suppressed in infancy and childhood because they were inconceivable at the time. This phenomenon also occurs in the work with intersex persons who have undergone treatment as children or adolescents. Just because persons come out as themselves relatively late in life, are married and have children, must not be a reason for segregationist classification.

### Hormones and puberty

Administering the pregnancy hormone progesterone for FtM seems counterproductive to me. Even though the activity of the ovaries is suppressed, at the same time the negative effects of this hormone are encouraged: (in part considerable) increase of weight and unfavorable distribution of fatty tissue (contrary to the desired distribution). As important as the suppression of menstruation may be, it should not be achieved at any cost, since there are more beneficial solutions for this.

There are two good ways for a suppression of gonads' function: the first consists in long-term, continuous administration of natural hormones produced by the gonads (this corresponds to the principle of contraception by continuous administration of the pill, which in women causes amenorrhea, the absence of menstrual period), but this method is not an option for trans persons of any age. The second option suppresses hormone production of the gonads by influencing the feedback mechanism. This method can possibly delay puberty in juveniles so that they gain a few years in order to address their issue in depth. Such a way is more costly than the commonly used cross-sex hormones, the latter are however not neutral and through their hormonal effect induce a puberty of sorts.

A third possibility for adult trans persons is the direct administration of an active hormone therapy with hormones of the desired sex/gender (testosterone for FtM, estrogen and progesterone for MtF), or, where it presents itself, in combination with the second option. After a treatment period of six months, this method is equally effective for the majority of those treated. Nevertheless, every hormone treatment has to be tailored to personal needs and discussed with every person individually after providing clear information. The decision has to be taken jointly by doctor and patient. If a MtF is suggested a treatment with anti-androgens, then these should never be prescribed as the sole medication,

but always in combination with estrogens. The daily doses should here not exceed 100 mg and ingestion has to be ended after a gonadectomy or substituted by progesterone. Potential side-effects need to be monitored in particular for the liver and the state of mind. Infertility possibly ensuing after two years is the only irreversible effect of the treatment. All further changes are reversible and ultimately correspond to the changes of the sex-related appearance of adult trans persons through hormonal treatment. Furthermore, the administration of all three hormones has to be monitored to ensure that the respective level corresponds to the desired result.

Some health experts claim they do not give adolescents a hormone therapy and neither want to delay their puberty, for they do not know the long-term effects on their health. At the same time, neurochemical treatment of restless children<sup>6</sup> seems to cause no particular concern regarding the long-term effects on the brain. The basic problem, however, is the same. Certainly, anti-gonadotropines have not insignificant side-effects, but nevertheless, they are used in children whose premature puberty is to be delayed and there is no evidence of a negative effect on the neurological development. What is possible for these children should also be possible for trans children after they have been candidly informed about the current state of knowledge about this form of treatment, thus creating the possibility for an informed decision. Since the 1990s this procedure is permitted in several countries: USA, Canada, Great Britain, The Netherlands, Germany, Australia etc. Since 2014/15, this became also possible in France.

### **Hormone therapy as a psychological testing procedure**

The changes brought about by hormone therapy in the first three months are not noticeable by people living in contact with the persons who want to test if they feel better with hormones of the other majority sex. These effects are wholly reversible once the hormones are discontinued. Generally, the person becomes aware within the first three months whether this is really the right way for them. This hormonal test is much more effective than any ‘psych’ assessment. Anyone who does not feel better after a three-month treatment should question the pertinence of continuing the treatment. Potentially irreversible and relatively undramatic changes when terminating a virilizing hormone therapy after three months would be an enlarged clitoris and a deeper voice (equal to that of a 40 year old woman who smokes more than 20 cigarettes a day). Abandoning a feminizing hormone therapy as it is administered in France since 2000, would have as only effect an enlarged areola and nipple zone (but without an actual development of the gland function).

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**6** | Children suffering from an attention deficit disorder with or without hyperactivity (ADHS) or a serious development disorder; the latter is the new term for the autism spectrum as a whole.

## CONCLUSION

The professional support of trans children can begin as soon as they express the desire to receive it, or as soon as they demonstrate a gender identity variance, even if they do not move in the direction of a transition. Should they opt for a transition during or after professional support, appropriate solutions can be offered quickly. If the support begins when the person enters puberty or shortly before, it is possible to prevent, through a delay of puberty, a development in the wrong direction from the point of view of the juvenile person and gain valuable time. Hormone therapy is more effective when preceded by a delay of the development of puberty. In case of a termination of treatment, the latter can still resume where it was interrupted. Since not everyone enters puberty at the same age, it can be delayed for one or two years without any problems. In case of a transition, genital surgery is only necessary for those who expressly desire it.

A change of first name can be effected from the beginning, permitting an adaptation of the obtained diplomas. A change of civil status could be given from 18 months of hormonal therapy or from the age of 18. A professional career could thus be approached in the desired gender from the beginning.

The ideal solution would evidently be to omit the mention of sex in the civil status for everyone. This would mean abandoning such a criteria on all kinds of documents, like it was done before with the colour of skin, denomination, etc. The sex and gender distinction fills the bed of sexism as the racial notion does for the one of racism.



## **ANALYSIS AND OUTLOOK**





# Optimism, Happiness and other Cruelties from a Conference on Sex/Gender Norms

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*Todd Sekuler*

## SUMMARY

In addition to a deliberately brief overview of the conference and its contents, this analytical outlook focuses on affect in its interwovenness of subject and object and examines the question how one could, particularly at a conference on sex/gender norms, deliberate, reflect and discuss – or not – the force of affects for these same sex/gender norms. How and where is affect accorded space, where does it claim space itself? The outlook discusses how, by means of the powerful emotions of ‘happiness’ and ‘optimism’ as forces of affect, some bodies are included and others excluded, and how, in revealing the cruelty of promises of happiness and conference optimism, such cruelties can be overcome or turned to productive effect.

## BODIES – AFFECTS – SCIENCE

Endlessly emerging, accumulating, transforming in the shifting of bodies and relations, the force of affect is never as absent from scholarship as claims of objectivity would like for us to believe. Despite all efforts, the rhythms and modalities of affective intensities resist attempts to control or eliminate them. The proposition that knowledge is situated – that it deals with “particular and specific embodiment” and not the “transcendence of all limits and responsibilities” (Haraway 1988: 82) – is perhaps already a banality for scholars of ‘sex/gender’ and ‘sexuality’, yet one that still warrants repetition and also critical reflection. For example, one might argue that affect instead claims knowledge to be positioned and dis-positioned simultaneously, or perhaps in a constant state of re-position-

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**1** | Original version in English. For an explanation as to this phrasing, see footnote 3, p. 9 in this publication. It will not be further discussed in this chapter, and has been uniformly applied to conform with the book’s political and semantic framework.

ing that both marks and reflects bodies as well as the worlds within which bodies unfold. Affect emphasizes the becomings and un-becomings that are forming and residing ‘in-between’ and ‘beside’. It is this in-the-vicinity and in-stability that pulls out rather than hides the tensions in and impossibilities of dualistic modes of thinking that assume the certainty of being taken for granted. Typically encompassing but always more than mere emotion, affect

“marks a body’s belonging to a world of encounters or; a world’s *belonging* to a body of encounters but also in *non-belonging*, through all those far sadder (de)compositions of mutual in-compossibilities.” (Seigworth/Gregg 2010: 2)

In this chapter I would like to consider the conference “Gender Normativity and its Effects on Childhood and Adolescence”, held in Luxembourg from the 24th to the 29th of September 2012, as part of a world of affective forces of encounter. I do not pretend to place an easy label on the messy type of affective display that became for me a critical revelation of the positions or limitations of corporeal belonging as well as the abundance of non-belonging at various intervals throughout the conference, but the dynamics of both belongings and non-belongings resulted in the temporary but no less impassioned departure of one participant – a representative of an association for intersex persons – from the space of the conference. This displacement signaled most visibly the presence of affect in a space where any semblance of emotion is seen to have little room for expression. Perhaps somewhat paradoxically, I would thus like to try to understand this conference, not only by its presences, but also by its absences, or at least via the pushing out of certain ways of being. However, by the fact that even in their non-appearance, or removal, certain bodies trouble those present, a division between us and them, subject and object, inside and outside proves to be imperfect.

My presence at the conference was facilitated by an invitation from the organizers to write a brief summary of findings to be submitted back to the event’s financial supporters, the National Research Fund of Luxemburg (FNR: ‘Fonds National de la Recherche’). Hence, unlike most other chapters in this book, this text is not an extended version of a paper presented at the conference. Instead, I draw on one presentation from the conference to reflect upon how it, and the conference as a whole, related to the topic and the various groups (un-) addressed within its content. This means that I have the luxury of reflecting on the complexities of the congress and its topic retrospectively. That being said, my comments are not meant to undervalue what I see to have been an extraordinar-

ily successful, enlightening and productive conference – clearly organized with much sensitivity and careful reflection.

Given my role, I first offer a very short synopsis of key findings of the various presentations and discussions that took place during the conference. I then discuss how optimism – an affective force holding the conference together in important and necessary ways – may help to make sense of the absence of certain bodies from the affective, phenomenological and epistemological space of the conference. Rather than attempt the problematic task of making sense of the aforementioned person's brief departure, I consider in some detail the affective register of a presentation that was among those that, according to the departing participant, sparked their exit. Specifically, I will consider one of several photographs included in a presentation by an endocrinologist who sought to visualize the success of his protocol for the provision of sex/gender assignment procedures to transsexual youth. I do not reproduce the image in this chapter, largely for ethical reasons, although I consider how its materiality during the lecture, in interaction with the discursive, social and especially affective dimensions of the presentation, were put to work to sustain the futurity of certain bodies at the expense of others.

### **Brief conference overview**

What are sex/gender norms and how do they manifest their impact on young people? How are sex/gender norms socially constructed, structurally anchored and historically distinct? To what extent is a world without sex/gender norms imaginable or even desirable? These are a few of the central questions that accompanied the conference "Gender Normativity and its Effects on Childhood and Adolescence" held in Luxembourg from the 24th to the 29th of September 2012. To approach these questions, scholars, activists and politicians explored interdependent sites of power and knowledge production that might be summed up under the categories medicine, law, and education. In addition, opening lectures helped to situate discussions of these various aspects within the fields of philosophy, sociology and ethics. This book offers a comprehensive exploration of the issues presented at the conference; I offer a brief summary of points that I found to be key 'findings'.

In general, presenters seemed to agree that the body is a highly contested site for reading and regulating sex/gender. Despite the common construction of sexed/gendered bodies as naturally categorical or dualistic, conference participants made clear that they are remarkably varied and malleable. For example, one presenter argued that a combination of biological and socio-environmental

factors – such as temperature, social interactions and hormonal regulation – influence the development of the biological characteristics typically used to categorize animals into two sexes. Other presenters demonstrated that alleged truths about sexed/gendered and racialized bodily differences have been and continue to be used to naturalize socially constructed and hierarchical sex/gender and racial categories, and are experienced as violent by sex/gender non-conforming, as well as sex/gender conforming, youth. One speaker suggested that categorization may be a sort of ‘necessary evil’ in as much as it helps us make sense of a complex world. Thus, rather than try to do away with categorization, it may be helpful to recognize that categories of knowledge and categories of representation are mutually productive and are both involved in the construction of sex/gender inequalities, but each offers tools to transform the other.

Multiple speakers emphasized that EU and UN rights documents demand that signatory states recognize a child’s fundamental rights, including the rights to health, identity, freedom and protection. Nonetheless, these and related laws have been interpreted in different ways over time, highlighting the plasticity and sociohistoric relevance of reading and interpreting legal documents, particularly about sex/gender, sexuality and age. While there are certain international or national laws that offer support for young trans people who wish to undergo sex/gender confirming procedures, and for the stance that doctors should not operate on intersex infants if not medically necessary, many of these legislative tools are difficult to make sense of due to their complexity and have not yet been applied successfully to individual countries or cases.

All the same, conference presenters emphasized that laws alone do not offer means to improving the situation for trans and intersex youth; they must be monitored, interpreted and enforced based on the needs and rights of the youth they intend to address, and should be developed in constant exchange with youth themselves as well as with other sites of praxis and knowledge production. Educational processes offer one such space for collaboration. Given that the naturalization of sex/gender differences takes place in both formal and informal educational spaces – such as during child rearing, in medical textbooks or children’s literature – these forms of communication introduce important opportunities for intervention. Within this context especially, the concept of cisgenderism, introduced by one presenter and defined as a systematic form of prejudice that stigmatizes non-cisgender forms of expression, offers a compelling new epistemology for thinking about sex/gender norms and structures of oppression.

Many presenters and participants may read this brief summary with dissatisfaction due to the inevitable reduction of arguments and the exclusion of nuance

necessitated by the chapter's space restrictions and the nature of my responsibilities as rapporteur. More relevant to this chapter, however, it also slights the material and inter-corporal complexities of the conference that constitute and are constituted of affect. Indeed, within the context of this conference, there is still much to gain by exploring the vital role of affect in the (un-)doings, naturalization and illumination of sex/gender norms. Without a doubt the conference did engage with the significance of emotion and personal history in understanding and communicating about sex/gender norms. For example, one young trans person, an invited speaker, described in personal and sobering detail the feelings of rejection and suffering that accompanied ongoing interactions with health care providers, educators and others. And an unannounced but carefully organized artistic performance provoked, at a minimum, reflection about conference participants' own sex/gender norms and the possibilities of sex/gender fluidity both corporeally and performatively. All the same, whereas other topics became a matter of theoretical and empirical development, affect was left to gather in and across the space/time assemblages of the conference, fated to be felt and experienced, but never discussed.

As affect insists that both subject and object are intertwined – that the division of subject/object is not easy to make out – one might claim that engagements with *sex/gender* norms via affect can be both the objects and subjects of the conference simultaneously. Indeed, the process of the conference is already part of the world described by the conference, thus the conference generates even while it tries to portray. For that reason I'd like to ask what it might mean to think about affect as an '*effective force of sex/gender norms*', especially in the context of a conference with sex/gender norms as its topic of investigation. To that end, there are two affective registers from the conference that I will explore that are not entirely unrelated: 'optimism' and 'happiness'.

### **The cruelties of conference optimism**

Despite the shortcomings of the conference summary I provide above, I think it is not an exaggeration to speak of a cohesive and yet chaotic affective energy that to some extent permeated the entirety of the events. This ostensible cohesion was also reflected in the humdrum details of the conference – during greetings or discussions at the coffee table between sessions or upon arrival in the morning and departure in the evening, among groups of participants and presenters during lunch or dinner breaks, during social events at the hotel and, most markedly, after the final event when due thanks were voiced publicly and many were taken by the feeling of having accomplished something important

over the course of the preceding days' events. This cohesion and sense of accomplishment speaks to the focus of the conference and the remarkable talent of the organizers to procure excellent speakers who – in some way or another – share a critique of sex/gender norms. Similar, no doubt, to many others who attended, I left feeling inspired and motivated, among other feelings, with many questions and reflections that I bring with me to my activism, doctoral work and other settings.

To borrow from Lauren Berlant, I would like to propose that we think of the conference as an object of desire, which she describes as “a cluster of promises we want someone or something to make to us and make possible for us” (2010: 93). We do not have to look beyond the introduction to the conference program to see that it makes certain promises that become proximal to the conference itself:

“This conference will examine, above all, gender norms and their manifestations during development and education...The conference will also critically explore ideas about what is ‘best’ for a child, who defines this ‘best’ and who knows what is ‘best’... [T]he conference will provide space for a result-oriented debate about how to improve familial and social incorporation of gender non-conforming youth into prevailing gender norms. It will consider ways to expand the spectrum of recognition regarding variability across biological sex, gender identities, social roles and sexual orientations, as well as the ways in which they all interact... [A]nother goal of the conference is to expand the discussion about gender equality to include youth who evade prevailing gender norms. Results and conclusions from the conference will help to provide possible solutions for improving equality, especially in the realms of formal and informal education...Discussions and developments with regards to ‘good practices’ will be a focus of the conference...”

The possibility – and to some extent the actuality – of fulfilling these (often lofty) promises provided for many participants and presenters of the conference a sense of optimism – what one might describe as an orientation towards and attachment to the event as it happens. This is not to say that there was no disagreement or divergence within the conference, or that the temporality of the conference was clearly directional or even linear, or that all presentations shared a particular epistemology or political ideology. Given the fact that one participant left the space of the conference in aggravation, as I mentioned above, the real but sporadic disaccord during the conference has already been established. All the same, it is interesting to note that for this participant, the most viable option was not to continue to engage in debate or conversation, but instead to leave the room.

The exclusion of this participant may be part of an affective force that became entangled with the accumulating optimism of the conference. With each pre-

sentation, participants were opened up to a certain way of knowing the topic being presented, which was, given the context, purportedly connected with sex/gender norms and their impact on youth. One could agree or disagree with part or all of one or every presentation, and yet the decision to stay and listen and continue the project of the conference was an optimistic investment in the conference as a means for attaining the bouquet of promises it was thought to potentially provide.

It is important to acknowledge that the participant returned to the conference room shortly after their departure. Was it a renewed optimism – no matter how faint or uncertain – that brought them back? Berlant uses the term ‘cruel optimism’ to describe the unrelenting optimism one brings to an object despite eventual, or even certain, disappointment: “Cruel optimism is the condition of maintaining an attachment to a problematic object *in advance* of its loss” (2010: 94). Why would one persist with an attachment to an object in the face of a certain disappointment? This question is not easy to answer, but Berlant proposes that it may be based in a fear that the loss of the object will make it impossible to continue hope about anything at all. Even if failure is certain, there is a desperate hope that certainty is at times uncertain so that hope, and life, can continue.

Although I am not proposing that optimism, cruel or otherwise, is what provoked the participant’s return – only he can offer an explanation for that decision – what I would like to suggest here is that there is some *cruelty* in the optimistic ventures of organizing, attending, participating in, presenting at or writing about this and similar conferences in as much as they invest in structures that are known to (re)produce systems of discrimination. There is a persisting desire to make these structures work – to analyze, critique and adjust them – with the hope that they will one day be based on equality and justice. An interest in and concern about sex/gender norms in the domains of education, medicine and law reinforces an investment in those fields even as they are identified as sites of normalization. To help make this clear, I attempt in the next section to demonstrate one example of the cruelty embedded in the emotion of happiness as it was put to work in a physician’s conference presentation.

### Happy sex/gender norms

Sarah Ahmed (2010) calls ‘happy objects’ those objects towards which affect pulls us. She uses the example of the family to exemplify how certain objects are read as good, as the cause of happiness, because we are oriented towards them as being good: “The family provides a shared horizon in which objects circulate, accumulating positive affective value.” (Ahmed 2010: 38). According to Ahmed, the depiction of families as happy, however, occurs by identifying those who do

not reproduce its line as the cause of unhappiness: “Some bodies are presumed to be the origin of bad feeling insofar as they disturb the promise of happiness, which I would re-describe as the social pressure to maintain the signs of *getting along*. Some bodies become blockage points, points where smooth communication stops.” (Ahmed 2010: 39). From this light, one might argue that sex/gender norms gather some of their force within, and with, objects that promise happiness. Or more concretely, sex/gender norms might also be read as *happy objects* that pull us not just towards them, but also away from those who do not conform to, and thus obstruct, an orientation towards those norms.

During the conference, at least one object of sex/gender norms was transmitted through another object that too was painted as happy: a photograph. I should clarify that, rather than physical photographs, we were presented with digital images within the context of a PowerPoint presentation. That this analysis is about a PowerPoint of a digitalized version of a photograph of a body is important for understanding the degrees of repurposing that took place – materially, socially, technically, temporally and spatially – so that the matter of the image could be put to work in the ways intended by the conference presenter, and perhaps in ways that he did not intend. In this context, it is helpful to think of the photograph as a ‘social biography’ (Kopytoff 1986) in as much as the function and meaning of the image was likely dependent upon where and when it was exhibited as well as the intention of the presenter and their relationship to the photograph. Although I am unable to provide an overview of the complex visual economy (Poole 1997) of the image, it is safe to assume that it has been repurposed over time and its agency and forms of life include a complexity of shifting, divergent and asymmetric affective relations and meanings.

The images in question were presented as part of a talk by one German endocrinologist who was invited to offer an overview of the protocol he and others utilize to provide sex/gender-confirming procedures to interested trans youth. It should first be noted that not all physicians are in agreement that hormone-surgical procedures should be made available to young people. Many fear that persons below a certain age have not yet fully developed their sense of self, and there is thus a reluctance to perform interventions that are considered irreversible. According to this doctor, however, at the onset of puberty – which he defines as between the ages of 10 and 13 – either reconciliation with the so-called ‘biological sex’ occurs, or there is an increased rejection of a body seen as ‘wrong’. For him, the temptation to ‘wait and see’ does cause harm, as providing young people with hormone inhibitors at an age early enough to postpone the development of allegedly ‘irreversible’ secondary sex/gender features helps to ensure that their



transitions are not only less emotionally and socially straining, but that they are also physically and visually more convincing. To demonstrate the success of his approach, he included in his slide show before and after pictures, first of one trans girl and then of one trans boy. He also made sure to inform us that he received approval from the relevant persons for the presentation of these images at the conference.

To underscore the success of the procedures, and thus of the work of this endocrinologist, he did not rely on the visual power of the images alone. Instead, he provided commentary with each image, no doubt in part to ensure that the images were packed with a certain affective strength. Indeed, I propose that the force of affect accrues within the assemblage of meanings and relations produced by the presenter and his narration, the pictures projected onto the screen and the inter-corporal dynamics of the various members of the audience. To accompany a photo of a trans boy, post surgical interventions and shirtless, at age 18, the doctor clarifies that the person developed into a “very nice and open young man.” The doctor then added that “no one who saw him would think that he initially was not a boy.” And later, due to the success of his transition, we were informed, “he had a very high graduating grade (*Abitur*)” and that he “picked up one girl after another - a very successful flirt”. Youth who undergo transitions early enough, he concludes, are “not in an extra category, but instead belong to the group. And this equality with the group is,” from the perspective of this endocrinologist, “very important for their general psychosocial development.”

There is a certain irony in the work of this physician as he calls upon images as proof of both the invisibility and the success of his work: “No one who saw him would think that he initially was not a boy”. The interventions performed by him and other doctors on this young person are ‘so good’ (in their construction of sex/gender conforming bodies) that the ‘threat of adversity’ (via the potential doubting of the young person’s sex/gender) has been all but erased. Of course, implicit in the doctor’s statement is the assumption that it would be bad if one were to think that the young person initially was or may not have been a boy. The implied – and hence unspoken – aspect of this statement reminds us that it was taken as a given that sex/gender non-conforming bodies are undesirable and that their undesirability is a shared belief if not a basic fact. It is also worth pointing out that the visuals and narration selected for this presentation render as positive, desirable and happy those bodies that conform to norms, so that we are again oriented in their direction as the path towards happiness. It thus becomes clear that sex/gender norms are to some extent reinforced as norms by making the achievement of those norms part of a promise of happiness.

Here one might insist that the boy in the photo requested that the doctors do all they could to ensure that, following his transition, there be as few remnants as possible of the sex/gender he was assigned at birth - often referred to as one's so-called 'biological sex'. The doctor's comment ("No one who saw him would think that he initially was not a boy") makes the assumption that it would be bad if one were to think that the boy were anything but a boy, this critic might argue, only because the boy himself wishes that to be the case. Since the doctor did not provide the details of the boy's request, this may or not be true. This critique thus takes for granted the uncertain stance that all trans youth wish to conform to the sex/gender norms of the sex/gender with which they identify (assuming they identify with a static and easy to define sex/gender). It also fails to consider the complex temporalities of the photo and its affective agency beyond the desires of the photographed boy, and beyond the desires of the doctor. In addition to asking what the boy or the doctor intend for the boy's body and the photo of the boy's body (and the PowerPoint slide of the photo of the boy's body) to communicate, one might ask what the image does at the conference, despite or even because of those intended messages. What are the futures that the photo enables or excludes, and what are the histories that it brings to the present?

For this doctor it was not enough to imply that the bodies in the projected images have achieved happiness solely based on their convincing transition as demonstrated by their inability to be distinguished from sex/gender conforming youth; in order for them to escape suspicion, to 'pass' as a success of sex/gender transition, they must also be bodies that are "not in an extra category, but instead belong to the group." Although the doctor never makes clear to which group he is referring, he does provide us with certain clues about the criteria of their belonging (or at least the criteria of belonging as a young trans man): the acquisition of an Abitur, (hetero)sexual appeal and psychosocial development. There is an exchange of positive affect that occurs due to the proximal relations between these seemingly desired criteria and the sex/gender norms reinforced via the presentation and discussion of the images. The accumulation of their various positive registers helps to blur them together such that they all become part of the same 'happy family'.

Of course, the assumed and yet debatable desirability of these criteria is worth pointing out. An early transition seems advantageous to this doctor, because it improves the likelihood that trans youth attain a degree and develop a certain psychosocial level and (hetero)sexual prowess. However, just to take one example, some people might be less quick to invest in the belief that an Abitur is a desired goal. After all, students in Germany are divided at a very early age

into schools that are based allegedly on achievement and, in so doing, research shows, they are also divided based on family income and migration background (Baumert/Watermann/Schümer 2003). As a result, people of color and students from lower-income families are systematically excluded from access to the educational path that makes the acquisition of an 'Abitur' possible. Thus, it is not all young trans people who might access group membership if they initiate sex/gender confirmation procedures early enough so as to eliminate signs of non-conformity; it is only those who are white and not living in poverty – two characteristics unaddressed and yet part of the affective force of the projected photo – who are entitled access to these criteria. This selective acquisition is part of what renders the criteria desirable. Hence, we can see here how sex/gender norms become inextricably linked with norms about health, sexuality, education and, less explicitly, class and race.

Regarding imminent rifts in trans activism in the United States, Jack Halberstam keenly notes: "[T]here is a huge difference between becoming a black man or a man of color and becoming a white man" (1998: 159). Indeed, the absent discussion about the meaning of race and class during transition, or about how race and class influence sex/gender norms and experiences of sex/gender non-conformity, was perceptible to me throughout the conference. This absence was mirrored in, if not to some extent produced by, the class and racial dynamics of the conference location, but also perhaps the overwhelming whiteness of the conference organizers, participants and presenters. Sarah Lamble (2008) has analyzed the events surrounding 'Transgender Day of Remembrance' (TDoR), a day intended to commemorate those who have been killed in the last year, by comparing the typically white middle-class students who organize the day with the overwhelmingly poor people of color, often sex-workers, who are in general remembered at these events. She argues that TDoR events neglect the role of racism, poverty, and other forms of stigma in the murderous violence directed at trans people, instead reducing motivating factors to specifically anti-trans hostility.

## CONCLUSION

Via the unstable but no less powerful energies of 'optimism' or 'happiness', the forces of affect at this conference on sex/gender norms include certain bodies and exclude others. To borrow from Sarah Ahmed yet again, one might call these others 'affect aliens', a term used by Ahmed to label those who refuse to reproduce the arrangements of what is perceived to cause happiness or, one might

add, to lead to a bouquet of promises. This term is particularly fitting as it describes two of the excluded alien types who, via their exclusion or rejection at the conference, have made apparent how norms are reproduced even in the space of their deconstruction: 'unhappy queers' and 'melancholic migrants'.

As we have seen, unhappy queers are those who, despite all of the happiness promised by the norm, choose or accept or are stuck with the non-conforming body that may not make possible an 'Abitur', sexual success or psychosocial development. In short, it is "the queer person who is judged to be unhappy" (Ahmed 2010: 43). The *melancholic migrant*, according to Ahmed, "is the one who is not only stubbornly attached to difference, but who insists on speaking about racism, where such speech is heard as laboring over sore points." (Ahmed 2010: 48). The migrant refuses to allow sex/gender norms to be the only cause of their unhappiness, and in this refusal, they are seen to be the cause of their own unhappiness.

The exposure of these cruelties in the optimism and happiness of the conference must be part of what is taken away as central findings. After all, as Sarah Ahmed insists, "it is the very exposure of these unhappy effects that is affirmative, that gives us an alternative set of imaginings of what might count as good or better life." (Ahmed 2010: 50). And if this possibility for alternate imaginings produces a new form of optimism, let us not forget the potential cruelty of that optimism, but also not the value that optimism alone makes possible for the ability to face another day.

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